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# **BY-LAWS COTUIT FIRE DISTRICT**

(ADOPTED MARCH 28, 1983\*)

\*Amended January 29, 1985; May 28, 1986; May 27, 1987; May 25, 1988; May 31, 1989; May 29, 1991; May 27, 1992; May 31, 1995; May 29, 1996; May 28, 1997; May 26, 2004; May 25, 2005; May 31, 2006, May 30, 2007, May 25, 2011, May 28, 2014, May 25, 2016, May 31, 2017, May 29, 2019, November 19, 2019 1

## ARTICLE I

### Officers

Section 1: The officers of the Cotuit Fire District shall consist of a Moderator, a Prudential Committee of three members, a three-member Board of Water Commissioners, a three-member Board of Fire Commissioners, a Clerk, and a Treasurer.

Section 2: One member of the Prudential Committee, one member of the Board of Water Commissioners, and one member of the Board of Fire Commissioners shall be elected annually. The Moderator shall be elected every three years. All officers of the District shall serve for three years or until their successors are chosen and qualified.

Section 3: The Clerk and Treasurer shall be appointed by the Prudential Committee in accordance with the provisions of Chapter 328 of the Acts of 1926 as amended.

Section 4: The term of office for the officers of the District shall commence at the close of the Annual Meeting.

Section 5: Vacancies in any District office, except Moderator, may be filled by voting by ballot at a special election called for that purpose, or a vacancy may be temporarily filled by appointment by a majority vote of the Prudential Committee, the appointee to serve until the next annual election when candidates for the unexpired portion of the term of that office may be eligible for election, in accordance with the Massachusetts General Laws.

Section 6: Elected officials of the District shall not be eligible for appointment to positions as salaried employees of the District, nor shall any member of the immediate family of an elected official be eligible for such appointment, when a conflict of interest would exist.

Section 7: Any candidate for District Office must be a resident of the Cotuit Fire District.

## ARTICLE II

### District Meetings and Elections

Section 1: The Annual Meeting shall be held within the District on the last Wednesday in May in each year at 7:30 PM.

Section 2: Special meetings of the District shall be called by the Clerk when requested in writing by a majority of the Prudential Committee, by a majority of the Board of Water Commissioners, by a majority of the Board of Fire Commissioners, or by petition of at least one hundred qualified voters of the District, in accordance with the provisions of Chapter 48, Section 66, of the Massachusetts General Laws and as they may be from time to time amended.

Section 3: “The Clerk shall give notice of the Annual District Meetings by publishing the same in a newspaper printed within the Town of Barnstable, and shall post such notice on the Town of Barnstable and Cotuit Fire District’s web sites, said publishing and posting to be completed not less than seven days prior to the meeting. Special District meetings shall be published in the same manner but not less than fourteen days prior to the meeting.

Section 4: The warrant for the Annual District Meeting shall be closed at least thirty days before the date of said meeting. Articles may be inserted into any warrant for an Annual Meeting by petition of ten registered voters residing within the District, by filing said petition with the District Clerk before the warrant closes. Articles of an emergency nature may be included in the warrant for a special meeting called in accordance with Section 2 of this article upon petition of fifty registered voters residing within the District.

Section 5(a): The election for District Officers by ballot shall take place one day prior to the Annual District Meeting. Polls shall be open 4 PM to 8 PM. Upon receipt of valid nomination papers, the Clerk shall have prepared printed ballots, including absentee ballots, in accordance with the Massachusetts General Laws.

Section 5(b): Nominations for District Officers shall be made by filing nomination papers with the District Clerk, signed by at least twenty five persons qualified to vote in said District. Such nomination papers must be filed for certification of signatures with the Town Clerk, Town of Barnstable, not later than fifty days prior to the date set for election; and must thereafter be filed by the nominee with the District Clerk not later than thirty-five days prior to such election, or such other date as may be prescribed by the Massachusetts General Laws, Chapter 53, Section 10, as from time to time amended.

Section 6: All Committees/Boards of the District shall publish notice of all meetings, special and regular, in accordance with the Massachusetts open meeting law by posting on the Town of Barnstable and the District's web sites and by posting on any bulletin board designated by the Prudential Committee as an official place of posting.

### ARTICLE III

#### Finances

Section 1: The financial year shall begin the first day of July in each year and shall end the last day of June following.

Section 2: No District notes, or bonds shall be issued by the Treasurer unless authorized by a two-thirds majority vote of those present and voting in a regular or special meeting of the District; and all such notes or bonds shall be signed by the Treasurer of the Fire District and countersigned by the Prudential Committee of the District.

Section 3: No money shall be paid from the treasury of the District, except for the repayment of notes or bonds or other financial obligations incurred as above provided, and interest on same, without the written approval of the Prudential Committee or by vote of the District.

## ARTICE IV

### Moderator

The Moderator shall preside at all District meetings and shall have the powers of the Moderator of the Town Meeting and conduct all District meetings using the Handbook of Parliamentary Law entitled Town Meeting Time for rules governing procedure.

## ARTICLE V

### Prudential Committee

Section 1: It shall be the duty of the Prudential Committee to insure that funds, raised and/or borrowed by the District, are expended for the purposes set forth in the warrants and articles enacted by the District.

Section 2: The Prudential Committee shall receive the proposed budgets and articles of the District officers and departments proposed for the inclusion in the warrant for the Annual District Meeting at the regularly scheduled meeting of the Prudential Committee held during the month of March in each year and shall make recommendations thereon to the Annual Meeting.

Section 3: The Prudential Committee shall be authorized to sign, on behalf of the District, all contracts except Water Department contracts which have been approved by a vote of the District at any Annual or special Meeting or any other documents which do not require specific District approval.

Section 4: The Prudential Committee shall be responsible for supervising the location, installation and maintenance of the street lights within the District. Overriding consideration, in determining the placement of lights, shall be given to street intersections, fire hydrants, and hazardous road conditions.

Section 5: The Prudential Committee shall be responsible for the maintenance and operation of Freedom Hall. Cotuit and/or non-profit groups, whose activities are consistent with the character of the hall and the village, shall be permitted to use the building and its amenities at no charge. All other users shall pay a reasonable fee based upon schedules that shall be established by the Prudential Committee. All fees collected shall be returned to the General Fund.

## ARTICLE VI

### Clerk

Section 1: The Clerk, in addition to the duties of his or her office required by law, shall keep on file all reports, certificates, and inventories submitted to the District by any officer or committee thereof, which said records shall be open at all reasonable times to the inhabitants of the District qualified to vote in District affairs.

Section 2: The Clerk shall cause to be published all annual reports of all officers and committees of the District by the end of the calendar year.

Section 3: The Clerk shall cause to be published in the annual report all salaries, overtime, bonuses, benefits and average hours worked per week of all employees and elected officials of the District. The Clerk shall make available said report upon request within ninety (90) days of the close of the fiscal year and shall subsequently be published in the Annual Report of the District.

Section 4: The Clerk shall arrange to have all annual and special meetings recorded by audiovisual and stenographic means, shall have recordings duplicated, and shall cause them to be indexed and stored.

Section 5: The Clerk shall receive all requests for information from the public and determine whether the information requested is appropriate for release, but may seek counsel if necessary.

## ARTICLE VII

### Treasurer

Section 1: The Treasurer shall be bonded as required by M.G.L. c. 41 §35. The Premium for said bond is to be paid by the district.

Section 2: The Treasurer shall keep a regular account of all monies received and expended. At the close of the fiscal year and at such times as the District may require, the Treasurer shall submit a detailed report for each Department citing receipts and expenditures by appropriation. The District Treasurer shall have the authority and responsibility for making expenditures from District funds and shall keep a complete account of all moneys expended by the District and submit a detailed report of those transactions immediately after the close of the fiscal year, and incorporate this report into the next annual District report.

Section 3: The Treasurer shall prepare monthly financial statements for all departments.

Section 4: The Treasurer shall submit to the Clerk all salaries, overtime pay, bonuses, benefits and average hours worked per week of all employees and elected officials of the District. This information must be received in time to be published in the Annual Report of the District. The Treasurer shall make available the detail of this information upon request within ninety (90) days of the close of the fiscal year and it shall subsequently be published in the Annual Report of the District.

## ARTICLE VIII

### Fire Department

Section 1: The Fire Commissioners, through their appointed officers, shall be responsible for the care and maintenance of the fire station property and all fire and rescue apparatus and equipment.

Section 2: The Cotuit Fire Department shall be responsible for fire prevention, fire inspection, the extinguishing of all fires, and the carrying out of all rescue operations in the District. The Board of Fire Commissioners shall be responsible for the management and control of the fire department; they shall appoint the Fire Chief and other officers as required.

Section 3: The Fire Commissioners, through their appointed officers, shall maintain a conscientious and disciplined fire department, which, through a continuous training program, shall provide the District with an adequate roster of qualified rescue/firefighter personnel. They shall also be responsible for the appointed officers, fire police, firefighters, and rescue personnel as may be necessary and consistent with the size of the department and its activities; such appointments are to be made after consultation with the Fire Chief.

Section 4: The Fire Commissioners shall review all bills and warrants against the District contracted by their authority; they shall cause the preparation of an annual budget, recommend changes in salaries and hourly rates of pay, and cause the preparation of any other articles to be included in warrants for approval by District voters; they shall annually make a full report in writing to the District Clerk concerning the department's actions, expenditures and accomplishments, and its financial status.

Section 5: The Fire Chief shall be the chief executive officer of the fire department. He shall be responsible for planning, directing, and administering the day-to-day activities of that organization. The Fire Chief shall have jurisdiction over all other department personnel and shall have authority, when necessary, to enlist aid from persons



outside the department for fighting fires or for matters involving public welfare and safety.

Section 6: The Fire Chief shall be responsible within the Cotuit Fire District, for the administration and enforcement of the laws of the town and Commonwealth relating to fire prevention, emergency medical services, and public safety, including coordination with town, regional, state and national organizations.

Section 7: Should the Fire Chief not be available to respond to a fire, rescue, or other call, the senior officer present shall assume authority until properly relieved.

Section 8: Union negotiations will be carried out with representation from the District consisting of two (2) members from the Fire Commissioners and one (1) member from the Prudential Committee. The Fire Commissioners and the Prudential Committee shall each designate, by majority vote, their representative(s) to serve as a negotiator.

Section 9: The Fire Commissioners shall establish a schedule of fees to be charged for providing emergency medical, ambulance and other services and determine billing and collection procedures.

## ARTICLE IX

### Water Department

Section 1: The Board of Water Commissioners shall appoint the Water Superintendent and other staff as needed and shall provide management and oversight of said staff in a conscientious, responsible manner.

Section 2: The Water Commissioners shall prepare an annual budget, recommend salary rates and hourly rates of pay, certify all bills and warrants against the District contracted by them, prepare articles for approval by District voters, prepare an annual report in writing on the Water Department's actions, expenditures, financial status, and condition of the physical plant. The Water Commissioners shall have the care, custody, management, and control of all the property, real and personal, relating to the Water Department; shall have authority to determine and establish from time to time a schedule of water rates; and make rules and regulations for the introduction and use of water. The Water Commissioners or their assistants may enter upon the premises of any water taker to examine apparatus to ascertain the use to which the water is applied or to find or stop any waste. They shall in all suitable ways exercise a careful supervision to protect the interest of the water works and the public, and shall have all the other powers, duties, and responsibilities which are given to Water Commissioners by general laws, by-laws, and those prescribed in Chapter 244 of the Acts of 1935, Sections 5A to 5H inclusive.

Section 3: The Water Superintendent shall be responsible, within the Cotuit Fire District, for adhering to the laws, rules, and regulations of the Town of Barnstable and the Commonwealth of Massachusetts relating to delivery of safe drinking water; for proper training of personnel; for coordination with other water departments and agencies, as appropriate; and for planning, directing, and administering the day-to-day activities of the Water Department.

Section 4: The extension of water mains shall be under the following guidelines:

- A. Whenever any extension of a water main is requested upon any street or way, the Water Commissioners may require that, before any such an extension is made, a guaranty or bond shall be given to the District, in such amount and form and with such sureties as they shall approve, conditioned that the obligors shall pay to the District, for such time as the Commissioners shall determine, at the time appointed for payment of water rates, such sums as shall amount in the aggregate, annually, to ten percent of the cost of such extension; subject to diminution by the amounts that the District shall receive annually from rates paid for water by consumers connected with such an extension. An extension completed under such guaranty shall be known as a “quarterly extension” for the time of guaranty. Any consumer connected to such a guaranty extension at any time during the guaranty period becomes a guarantor for the remaining period of the guaranty, and the payments for which each guarantor is responsible are adjusted proportionately.
- B. Whenever any extension of a water main is requested upon any street or way, the Water Commissioners may require that, before such an extension is made, a guaranty or bond shall be given to the District, in such form and with such sureties as they shall approve, conditioned that the obligors shall pay to the District one-half of the cost of the extension upon its completion.
- C. When Extensions are applied for by a real estate developer, and approved by the Water Commissioners, the total cost of such extensions shall be borne by the said developer; as to whether or not said applicant is a developer will lie in the discretion of the Water Commissioners.

Section 5: A Stabilization Fund is hereby established for the sole use of the Water Department in accordance with MGL Ch.40, Section 5B, as amended 2016. To raise and appropriate the funding of the Water Department Stabilization Fund each year based on the preceding December’s Water Department’s census of meters at \$20.00 a meter adjusted for any shortfall in collections of meter fees from the preceding year. In the first year, FY 2020 there will be no adjustment.

The fund will be accounted as a separate stabilization Fund by the Treasurer. The Water Department Stabilization Fund is to be used to fund any properly approved, lawful expenditure of the Cotuit Water Department, as per statute any expenditure to be funded by the Water Department Stabilization Fund will require a 2/3's majority of those present and voting at a District Meeting.

Section 6: Fines and penalties will be imposed for unauthorized taking, diverting, corrupting, or defiling of the public water supply or upon an entity who injures, destroys, or interferes with the public water authority's operations, construction, or maintenance, including the unauthorized willful trespass on the water authority's land or facilities. These fines and penalties will be imposed in accord with Massachusetts Session Law Chapter 446 of the Acts of 2012 which amends the following General Law : Section 39G of Chapter 40; Section 9 of Chapter 92A ½; Section 170 Chapter 111; and inserting Section 123A in Chapter 266 and any other applicable Massachusetts State Law.

## ARTICLE X

### Amendments

Section 1: Acceptance of these by-laws, by a two-thirds majority vote of those present and voting shall void all previous by-laws of the Cotuit Fire District.

Section 2: The by-laws may be altered or amended at the Annual Meeting or at any other District meeting regularly called for such purpose by a two-thirds majority of those present and voting, provided an article has been included in the warrant for said meeting fully stating the stipulations of the proposed amendments. No action taken at a District Meeting shall be valid unless the subject matter thereof is contained in the warrant for such a meeting

## ARTICLE XI

### General

Section 1: All elected boards and committees shall be required to hold at least one regular monthly meeting. A majority of the elected board shall constitute a quorum at each meeting. The Clerk shall post all regularly scheduled meetings in accordance with Massachusetts General Laws.

Section 2: All contracts for the purpose of installation of equipment, supplies or material on behalf of any board or committee shall be awarded, and associated documentation maintained, in a manner consistent with the requirements of M.G.L Ch. 30B, Section 3 et Seq.

Section 3: All boards and departments shall prepare their annual budgets in a minimum of four general categories, to include maintenance, labor and salaries, operating expenses, and miscellaneous; and will submit these budgets prior to the Annual Meeting in accordance with Article 5, Section 2, of these by-laws.

Section 4: The Prudential Committee, the Board of Water Commissioners, and/or the Board of Fire Commissioners shall have the authority to set a sum of money from time to time to be used as a reward for information given which results in the arrest and conviction of anyone vandalizing District property, said sum not to exceed five hundred dollars (\$500.00).

Section 5: The Prudential Committee, the Board of Water Commissioners, and the Board of Fire Commissioners shall promulgate rules and regulations pertaining to personnel matters applicable to any permanent personnel over whom they have authority.

Section 6: There shall be a standing committee for the purpose of reviewing the by-laws of the District on an annual basis and to make recommendations in the form of articles in the warrant whenever they deem changes or additions to the by-laws are appropriate. This committee shall be composed of one member of the Prudential Committee, one member of the Board of Fire Commissioners, one member of the Board of Water Commissioners, and two at large members of the District who shall be appointed on an annual basis by the Moderator, said appointments to be made each year at the time of the Annual Meeting or subsequent to the Annual Meeting should

no District citizens volunteer before said Meeting. The Committee shall conduct meetings at least once during the fiscal year and additionally as required.

Section 7: All narrative annual reports of officers and committees of the District will be filed with the District Clerk within forty-five days of the close of the fiscal year.

Section 8: The Prudential Committee of the District will be notified of all newly created employee positions within any Department of the District at least thirty days prior to any public notice or advertisement to fill said positions.

Section 9: There shall be a standing Policy Advisory Committee. The Committee shall make informal recommendations to the elected boards and committees of the Cotuit Fire District. Such recommendations may concern, but are not limited to, efficiencies in the operation of the various departments, and coordination of financial planning between the various departments, including the timing of capital expenditures. The Policy Advisory Committee may also research and evaluate any potential action which might improve the quality of service provided by the Cotuit Fire District to its residents. This Committee shall be composed of one member of the Prudential Committee, one member of the Board of Fire Commissioners, one member of the Board of Water Commissioners and two members at large who shall be appointed by the Moderator on an annual basis. Said appointments are to be made each year at the time of the Annual Meeting or subsequent to the Annual Meeting should no District citizens volunteer before said Meeting. Until the first meeting of each fiscal year, the Prudential Committee member shall serve as chairman. Upon the convening of the Committee, a chairman shall be elected by the members of the Committee. The Policy Advisory Committee shall be advisory in nature only; the Committee shall conduct meetings at least once a year.

Section 10: The Clerks of all Committees and Commissions, including any standing or Ad Hoc Committees, shall post the minutes of each meeting as kept in accordance with Chapter 39, Section 23B, of the Massachusetts General Laws, on the District web site upon approval of said minutes.

Section 11: The Prudential Committee, The Board of Fire Commissioners, and the Board of Water Commissioners may from time to time appoint a panel of citizens of the District to act as an ad hoc committee to study and advise on subjects of interest to the District.

**ACTS OF THE LEGISLATURE**  
**ADOPTED BY THE COTUIT FIRE DISTRICT**

1. Establishment of Cotuit Fire District as amended  
Chapter 328 of the Acts of 1926 .....**Adopted June 18, 1926**
  
2. Provision for Water Supply as amended  
Chapter 244 of the Acts of 1935 ..... **Adopted January 13, 1936**  
*Amended May 26, 1999 to change debt limit to 1,500,000.*
  
3. Provisions for Water Liens  
Chapter 40, Sections 42A to 42F inclusive, General Laws  
.....**Adopted January 11, 1937 (Recorded in Barnstable Registry of Deeds, February 8, 1937)**
  
4. Provision for Compensation of Certain Public Employees for Injuries Sustained in the Course of their Employment Chapter 152, Section 69, General Laws (Ter Ed) ..... **Adopted February 12, 1940.**
  
5. Provision for Appropriation for War Memorials and Public Libraries  
Chapter 351 of the Acts of 1949 .....**Adopted February 13, 1950**
  
6. Provision to provide employees of the District with health and life insurance MGL Chapter 32B ..... **Adopted February 14, 1972**
  
7. An Act Relative to the Administration of the Fire Department of the Cotuit Fire District in the Town of Barnstable  
Chapter 144 of the Acts of 1984 .....**Adopted September 13, 1984**
  
8. Special Assessments for Cost of Laying Pipes in Public and Private Ways



Sections 42G, 42H, and 42I of Chapter 40, General Laws....  
**Adopted May 29, 1985**

9. Provision for Indemnification of Municipal Officers  
Chapter 258, Section 13.....**Adopted May 27, 1987**
  
10. Provision to provide dental insurance to the employees of the  
District  
MGL Chapter 32B, Section 10A .....**Adopted May 31,  
1989**
  
11. Installation of Automatic Sprinkler Systems in Multiple  
Dwelling Units  
Chapter 148, Section 26I .....**Adopted May 29, 1990**
  
12. Provision to make the positions of Clerk and Treasurer  
appointed rather than elected..... **Adopted May 29, 1991**
  
13. Provision for Offering HMO Health Plans to District Employees  
MGL Chapter 32B, Section 16 .....**Adopted May 27,  
1992**
  
- 14. Provision Governing Cross Connections for the Water Dept.**  
MGL Chapter 111, Section 160A and the Massachusetts  
Drinking Water Regulations governing cross connections, 310  
CMR 222.22(2)(a) .....**Adopted May  
27, 1998**
  
15. Provisions to protect public health and welfare; implement the  
District's authority to regulate water use; implement District's  
authority to declare a water emergency  
MGL Chapter 40, Section 21 protects public health and  
welfare  
**MGL Chapter 41, Section 69B regulates water use**  
MGL Chapter 40, Sections 41A water emergency  
.....**Adopted May 31, 2000**

16. Provision to provide health insurance to retirees of the District MGL Chapter 32B, Sections 9E and 18  
... **Adopted May 31, 2000**

17. Provisions to provide post -employment benefits liability trust fund Chapter 479 of the Acts of 2008  
**Adopted May 25, 2011**

18. Provisions dealing with health insurance, deductibles and transfer to Medicare MGL c. 32B, sections 21, 22 & 23  
..... **Adopted March 6, 2012**

19. Massachusetts Earned Sick Time Law MGL C. 149 s. 148C  
..... **Adopted May 30, 2018**