

**TOWN OF CAPE CHARLES
WETLANDS AND COASTAL SAND DUNE BOARD
BY-LAWS**

**ARTICLE ONE
AUTHORIZATION**

- 1-1 This Board, established in conformance with the Wetlands Zoning Ordinance passed by the Cape Charles Town Council on April 13, 1993 and the Coastal Primary Sand Dunes Zoning Ordinance passed by the Cape Charles Town Council on July 12, 1994, has adopted the following articles in order to facilitate its powers and duties in accordance with the provisions of the Code of Virginia, Title 28.2, Chapter 13 – Wetlands (§28.2-1300 thru 28.2-1320) and Chapter 14 - Coastal Primary Sand Dunes (§28.2-1500 thru 28.2-1420), as amended.
- 1-2 The official title of this Board shall be the “Town of Cape Charles Wetlands and Coastal Sand Dune Board” or “Wetlands Board or WCSD Board”.

**ARTICLE TWO
PURPOSE**

- 2-1 The purpose of the Wetlands Board is to conduct public hearings on applications filed for uses, developments and/or activities in the wetlands and/or the coastal primary sand dunes that is not directly authorized by statute and issue permits in accordance with the Code of Virginia Title 28.2, Chapter 13 – Wetlands (§28.2-1300 thru 28.2-1320) and Chapter 14 - Coastal Primary Sand Dunes (§28.2-1500 thru 28.2-1420), as amended, and the Town of Cape Charles Zoning Ordinance Appendix E – Wetlands and Appendix C – Coastal Primary Sand Dune.

**ARTICLE THREE
MEMBERSHIP**

- 3-1 The Wetlands Board shall consist of five (5) members appointed by the Town Council.
- 3-2 The members of the Wetlands Board shall hold no public office in the Town other than membership on the local planning or zoning commission, the local erosion commission, the local board of zoning appeals, a board established by a local government to hear cases regarding ordinances adopted pursuant to the Chesapeake Bay Preservation Act and regulations promulgated thereunder, or as director of a soil and water conservation board.
- 3-3 The terms of office for each member of the Wetlands Board shall be appointed for a term of five years, which shall be staggered so that only one member’s term is up for consideration on an annual basis. The term of office shall commence on November 13 and expire 5 years hence on November 12.

If a member is appointed from one of the duly allowed other memberships as stated in 3-2 above, then the term of office shall run concurrently with their term of office from that duly appointed board or commission.

- 3-4 Any vacancy in membership shall be filled by appointment of Town Council and shall be for the unexpired term only.
- 3-5 Members may serve successive terms. A member whose term expires shall continue to serve until his successor is appointed and qualified.
- 3-6 Upon a hearing with at least 15 days' notice thereof, any board member may be removed for malfeasance, misfeasance, or nonfeasance in office, or for other just cause, by Town Council. Notwithstanding the foregoing provisions, a member of a local wetlands board may be removed from office by the Town Council without limitation in the event that the board member is absent from any three consecutive meetings of the board or is absent from any four meetings of the board within any 12-month period. In either such event, a successor shall be appointed by the Town Council for the unexpired portion of the term of the member who has been removed.
- 3-7 The Town Council shall also appoint at least one but not more than three alternate members to the board.
- 3-8 The Town Council may provide for the payment of expenses incurred by Commission members in the performance of their official duties and for compensation of service.

**ARTICLE FOUR
OFFICERS AND THEIR SELECTION**

- 4-1 The officers of the Board shall consist of a Chair, a Vice-Chair, and a Secretary. The Chair and Vice-Chair shall be elected by the membership of the Board. The Secretary shall be the Planning & Zoning Administrator or their designee.
- 4-2 The elected officers of the Wetlands Board shall be elected for a one (1) year term by the Board from the members at the first regular meeting after November 12 each year.
- 4-3 A candidate receiving a majority vote of a quorum of the Board shall be duly elected. He shall take office immediately and serve for one (1) year or until his successor shall take office.
- 4-4 Should the Chair and Vice-Chair be absent at any meeting, the member with the most seniority on the Board, alphabetically, shall preside as temporary Chair until the Chair or Vice-Chair is present.
- 4-5 Vacancies in offices shall be filled immediately by regular election procedures at the next meeting after such vacancy has occurred.

ARTICLE FIVE

DUTIES OF OFFICERS

- 5-1 The **Chairman** shall be an appointed member of the Board and shall:
 - 5-1.1 Preside over all meetings.
 - 5-1.2 Appoint committee chairmen and members.
 - 5-1.3 Be informed immediately of any official communication and report the same at the next regular Board meeting.
 - 5-1.4 Rule on all procedural questions.
 - 5-1.5 Carry out other duties as are assigned by the Board.

- 5-2 The **Vice Chairman** shall be an appointed member of the Board and shall:
 - 5-2.1 Act in the absence or inability of the Chairman.
 - 5-2.2 Have the power to function in the same capacity as the Chairman in cases of the Chairman's inability to act.

- 5-3 The **Secretary** shall:
 - 5-3.1 Keep a written record of all business transacted by the Board.
 - 5-3.2 Notify all members of all meetings.
 - 5-3.3 Keep a file of all official records and reports of the Board.
 - 5-3.4 Attend to the correspondence of the Board.
 - 5-3.5 Prepare and be responsible for the publishing of advertisements and public notices relating to all public hearings and public meetings.
 - 5-3.6 Keep a set of minutes of the Board meetings, which, after approval by the Board, shall be retained in the Department of Planning & Zoning and posted on the Town website.
 - 5-3.7 Forward Board votes and actions to the Virginia Marine Resource Commission (VMRC)
 - 5-3.8 The Board shall submit a report of its activities to the Town Council at least once each year. The board shall forward a copy of each report to the Virginia Marine Resources Commission.

ARTICLE SIX MEETINGS

- 6-1 Regular meetings of the Board shall be held the third Wednesday of each month in the Cape Charles Civic Center at 5:30 p.m. When a meeting date falls on a legal holiday, an alternative date shall be designated by the Board. Meetings may be cancelled in advance by a majority vote of those present at a previous meeting or if no applications have been received and there is no business for the Board to address, then the Secretary after consultant with the Chairman will cancel the meeting and notify all members in writing.

If the Chairman finds and declares that weather or other conditions are such that it is hazardous for Board members to attend a regularly schedules meeting, the meeting shall be continued to the following Wednesday at 5:30 p.m. in the Cape Charles Civic Center. Such findings shall be communicated to the Board members and the

press and posted on the Town’s website as promptly as possible. All hearing and other matters previously advertised shall be conducted at the continued meeting, and no further advertisement is required.

- 6-2 Except as provided for in Section 2.2-3711, Code of Virginia, 1950, as amended (Virginia Freedom of Information Act), all meetings, hearings, records, and accounts of the Board shall be open to the public. There shall be a Citizen Comment Period at each of the regular Board meetings. The Citizen Comment Period will allow each member of the public three (3) minutes to speak about any wetlands or coastal sand dune matter, except items already scheduled for a public hearing. All public participation must comply with the Guidelines for Citizen Participation, as adopted by the Town Council on July 22, 2021, and which are affixed as Appendix A to these bylaws.
- 6-3 Three or more members of the Board shall constitute a quorum. No action the Board shall be valid unless authorized by a majority vote of those present and voting.
- 6-4 No member present shall abstain from voting unless such member has a conflict of interest in the matter being voted upon. A “conflict of interest” shall exist when there is an actual conflict: 1) pursuant to the Virginia State and Local Government Conflict of Interests Act (§2.2-3100 et. Seq. of the Code of Virginia, or 2) pursuant to Town of Cape Charles Code of Ethics & Meeting Rules of Order, adopted by Town Council on July 22, 2021, and which is affixed as Appendix B to these Bylaws; or 3) as stated by the Board member unless objected to by a majority vote of the members of the Board with such member asserting such conflict of interest not permitted to vote on such matter.
- 6-5 Board members are permitted to meet with the applicants outside of a Board meeting and Board members shall publicly disclose any meetings at the next available Board meeting by providing names of those persons in attendance and a summary of the reason(s) for such meeting, topics of discussion and any conclusions or findings as a result of the meeting.
- 6-6 The Secretary, in reporting votes of the Board, shall indicate the recorded vote including any abstentions and absences.

**ARTICLE SEVEN
ORDER OF BUSINESS**

- 7-1 The order of business for a regular meeting shall be:
 - 7-1.1 Call to order by the Chairman
 - 7-1.2 Roll call; determination of a quorum
 - 7-1.3 Invocation and Pledge of Allegiance.
 - 7-1.4 Consent Agenda: A) Acceptance of the Agenda; B) Presentation of the Minutes

- 7-1.5 Public Hearings
 - 7-1.6 Unfinished business
 - 7-1.7 New business
 - 7-1.8 Report of officers and committees
 - 7-1.9 Citizen Comment Period
 - 7-1.10 Adjournment
- 7-2 The first item of business for the first regular meeting after November 12 of each year shall be the election of new officers.
- 7-3 Parliamentary procedures in the Board meetings shall be governed by Robert's Rules of Orders, specifically by the provisions which pertain to the Procedures in Small Boards. The Chair may speak, make motions and vote on all matters.
- 7-3.1 Motions shall be restated before a vote is taken.
 - 7-3.2 A tie vote on any motion means the defeat of the motion for a lack of a majority vote.
- 7-4 The Board shall keep a set of minutes of all meetings and these minutes shall become a public record.
- 7-5 The Board shall retain the option to invite public comment by those present at a regular meeting at such times as the Board deems necessary.

**ARTICLE EIGHT
HEARINGS**

- 8-1 The Board shall hold public hearings. Said hearings shall be held no later than 60 days receipt of a complete application.
- 8-2 Notice of the hearing shall be published in a newspaper having general circulation in the area once a week for two (2) successive weeks prior to such hearing. The published notice shall specify the place or places within the Town where copies of the application may be examined. The costs of publication shall be paid by the applicant.
- 8-3 Notice of the hearing shall be provided to the following: the applicant, the Town Council, the Virginia Marine Resources Commission, the owner of record of any land adjacent to the wetlands in question, the Virginia Institute of Marine Science (VIMS), the Department of Wildlife Resources, the State Water Control Board, the Virginia Department of Transportation, and any governmental agency expressing an interest in the application. Said notice shall be mailed no less than 20 days prior to the hearing date.

- 8-4 The procedures followed for a public hearing on any matter shall be:
 - 8-4.1 The legal advertisement is read, and the public hearing is opened.
 - 8-4.2 The matter/case before the Board shall be summarized by the Planning Director/Zoning Administrator. Presentations by staff shall be limited to fifteen (15) minutes unless additional time is authorized by the Board.
 - 8-4.3 The applicant, or their designated agent and/or legal representative, may make a presentation, combined total of fifteen (15) minutes, unless additional time is authorized by the Board.
 - 8-4.4 The Board may recall a staff member or applicant to obtain specific information or ask additional questions regarding the matter or case.
 - 8-4.5 PUBLIC COMMENTS: Members of the public shall have three (3) minutes to speak or submit written comments in accordance with the Guidelines for Citizen Participation (Appendix A).
 - 8-4.6 The applicant and staff are each provided an opportunity to provide a rebuttal or to clarify information in response to public comments, limited to five (5) minutes.
 - 8-4.7 Staff recommendation is presented.
 - 8-4.8 If the Board does not require additional information, then the Public Hearing is closed.
 - 8-4.9 The Board opens discussion on the matter and entertains votes for the recommendation and disposition of the matter.

**ARTICLE NINE
CORRESPONDENCE AND APPLICATION INFORMATION**

- 9.1 The Secretary shall draft and sign all correspondence necessary for the execution of the duties and functions of the Board.
- 9-2 The Secretary shall communicate by telephone or other means when necessary to make communications that cannot be carried out rapidly as required through direct correspondence.
- 9-3 All official papers and plans involving the authority of the Board shall bear the signature of the Secretary.

**ARTICLE TEN
AMENDMENTS**

- 10-1 These rules may be changed by a recorded two-thirds (2/3) vote of the entire Board membership after thirty (30) days prior notice.