

## **ARTICLE VIII. BOONE LAKE DAM MANAGEMENT DISTRICT<sup>1</sup>**

### **Sec. 42-191. Location and object.**

- (a) *Location.* The Boone Lake Dam Management District (hereinafter referred to as "management district") shall include all that part of the town located within the limits of that plat filed with the Exeter Town Hall, Assessors Tax Maps, dated 1988, maps numbered 19, 83 and 84, corrected to November 1989, as the same may be amended from time to time and which encompasses properties located on East Shore Drive, West Shore Drive and Birch Drive, said area being commonly known as Boone Lake or Boone Lake Shores.
- (b) *Object.* The object of the management district is to apportion among and collect from the owners of property within management district the costs of maintaining and repairing State Dam No. 219 and the lake access routes now owned by, and to pay the costs of utilities servicing and taxes assessed against properties of the Boone Lake Improvement Association, Inc. that may be used by the management district, and to raise funds for administering the management district, by establishing and regulating procedures by which the assessment and collection of funds can be made for the aforementioned purposes in an organized, efficient and equitable manner. In connection therewith, the management district may raise money as provided herein and may borrow money and repay it through the sale and redemption of bonds or other securities.

( Amd. of 12-10-18 )

### **Sec. 42-192. Voting.**

The owner or, if more than one, the owners collectively of any parcel located within the limits of the management district and assessed by the Exeter assessors' office as a separate parcel for real estate tax purposes (hereinafter parcel(s)) shall have one vote for each such parcel so owned on matters concerning the management district as hereinafter provided for; provided, however, that parcels in the same ownership that are contiguous to one another and used as one site shall be treated together as one parcel for voting purposes, and the term "parcel" shall include such contiguous parcels with regard to voting when the context so requires. The owner of any such parcel shall be the eligible voter entitled to cast such vote; but if there is more than one owner of any such parcel the owners thereof present at any meeting shall jointly:

- (1) Designate one such owner as the eligible voter entitled to cast the vote on behalf of all owners, and
- (2) If they so wish, designate one such owner who shall be the alternate eligible voter in circumstances where the eligible voter is not present and voting at a meeting,

and a written record of such designation(s) shall be filed with the board of directors and shall remain in force and effect until modified or amended by subsequent designations filed in the same fashion. The term "eligible voter" when used herein shall mean the eligible voter or the alternative eligible voter, as the context so requires. A vote cast by an eligible voter shall be deemed to be cast pursuant to the consent of all the owners. The term "owner" or "owners" as used herein shall mean those persons identified as the assessed owners of such parcel or parcels according to the records of the Exeter assessors' office as of 60 days before the scheduled date of any meeting, the

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<sup>1</sup>Editor's note(s)—An amendment adopted Dec. 10, 2018, repealed the former Art. VIII, §§ 42-191—42-198, and enacted a new Art. VIII as set out herein. The former Art. VIII pertained to similar subject matter and derived from Ord. of 11-15-07, § 1; Ord. of 7-7-08, § 1.

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date on which notices are sent or the date on which bills are rendered, as the case may be; provided that if such owners have transferred the parcel or parcels and the successor or successors have not yet been identified by such records as the assessed owners thereof, a certified copy of the recorded deed or other official evidence of ownership, together with an affidavit under oath by one or more of the persons claiming to be such successor(s) stating that such deed or other evidence is correct, when filed with the board of directors shall serve to establish that such successors are the successors to such owners of the parcel, and shall be considered owners for all purposes hereunder. The term "Exeter assessors' office" as used herein shall, when the context so requires, include the Exeter collector's office, or other department of the town required to make and keep assessments of real property therein.

( Amd. of 12-10-18 )

### **Sec. 42-193. Financial meetings.**

- (a) After the initial board of directors has been appointed by the town council as hereinafter provided, the board of directors shall, within 18 months of such appointment, call the initial financial meeting of the management district, to be held in a place within the limits of the town or at a place within a town immediately adjacent thereto, mailing a copy of a proposed budget, and any proposed bylaws and a notice of the place and the time of the meeting (which shall be no sooner than 30 days after said notice is mailed) in the same fashion as provided hereafter for subsequent annual financial meetings. The chairman of the board of directors or the vice chairman in the absence of the chairman shall serve as the moderator at this initial financial meeting. All action, business and procedures that could take place at or which would govern any annual financial meeting as herein provided may take place and will govern at the initial financial meeting, except as otherwise provided herein and the assessment, collection and enforcement of any amounts approved at such meeting shall be governed accordingly. The first order of business at the initial financial meeting shall be the election of a clerk, a treasurer and a collector/assessor of the management district, all of whom must themselves be owners of parcels, who shall thereupon serve as such officers and constitute the board of directors of the management district and until the election of their respective successors. The second order of business shall be the adoption of bylaws, if any have been proposed. The third order of business at the initial financial meeting shall be the adoption of a budget, if any has been proposed. After such initial financial meeting, subsequent annual financial meetings shall be held at a place within the limits of the town of Exeter or at a place within a town immediately adjacent thereto as specified in the notice hereinafter mentioned in the month of June of each year.
- (b) In connection with annual financial meetings, 30 days prior to the annual financial meeting in June, a proposed budget for the management district shall be prepared by the board of directors and shall be mailed to the owners of each parcel, in each case addressed to such owners in the same manner as, and mailed via first class mail to the mailing address specified in the records of the town assessors' office for the mailing of real estate tax bills, unless a successor or successors has been established as provided herein, in which case the budget shall be so mailed to such successor or successors to the address, if any, provided to the board of directors in writing by such successor or successors. The budget shall be accompanied by a notice of the date, time and place of the annual financial meeting.
- (c) A quorum at the annual financial meeting shall be eligible voters for 25 parcels. In the event that, for any reason, a quorum is not present at the time a meeting is scheduled to open, the board of directors is authorized to delay the opening time of, or postpone said meeting for such period of time, as in the discretion of the board of directors shall best serve the interests of the management district, said postponement to be done by proclamation and posting at two conspicuous places within the management district. If a quorum is not present when the meeting is resumed on the date to which it has been postponed the meeting may be held with only the board of directors and such eligible voters of parcels in the management district as may be in attendance and they shall be empowered to vote upon all matters legally

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before the meeting, each member of the board of directors having one vote and eligible voters of parcels (other than members of the board of directors) casting votes in the manner above described. In voting upon or in connection with any amendments to the proposed budget the following matters shall be considered:

- (1) The proper construction, management, preservation and support of the dam and related facilities, lake and property.
  - (2) The purchase or rental of all necessary equipment and generally all things necessary and proper for managing the management district, and carrying into effect and attaining the objectives of which this article is declaratory.
  - (3) The improvement, or the payment of expenses relating to property belonging to the Boone Lake Improvement Association, Inc., including access routes and facilities, used by the residents of Boone Lake in connection with the lake or by the management district for its operation.
  - (4) The creation of a reserve fund for the future management and replacement of property and equipment.
  - (5) The periodic auditing of the financial records of the management district.
  - (6) The times for payment of management charges and fees and the penalties for late payments.
  - (7) Payment of any charges and expenses arising within the management district, incidental or not to the above.
  - (8) Remuneration for the officers of the management district.
  - (9) Liquidating any obligations previously assumed by the Boone Lake Improvement Association, Inc. for repairs done to the dam.
- (d) In addition to voting upon the budget, the following action may be taken:
- (1) Voting to fill vacancies on expired or unexpired terms of duly elected officers, who shall consist of a clerk, collector/assessor and a treasurer. All candidates for elected office must submit their name and the particular office which they are seeking, in writing, to the clerk by 4:30 p.m. 30 days prior to the initial financial meeting or any annual financial meeting or special meeting. As to each office, the candidate with the most votes shall be deemed to be elected to that office.
  - (2) Voting upon any other matters that shall legally come before the meeting.
- (e) Approval of matters voted upon at the initial financial meeting, or any annual financial meeting or special meeting, except the election of officers, shall be by a majority of the votes cast; as to the election of officers, the candidate for any particular office with the most votes shall be deemed to be elected to that office.

( Amd. of 12-10-18 )

### **Sec. 42-194. Quarterly meetings.**

Quarterly meetings shall be held at a place within the limits of the Town of Exeter or at a place within a town immediately adjacent thereto as specified in the notice hereinafter mentioned in the months of March (Community Projects meeting), September (Lake Maintenance Meeting), and December (as needed). All quarterly meetings shall be held within the month noted of each year. Notice of the meetings shall be given via electronic notification, unless otherwise requested in writing by the property owner, to all property owners at least 30 days before such meeting and at a posted conspicuous place within the district during said time. The management district shall provide an agenda for each quarterly meeting.

( Amd. of 12-10-18 )

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## **Sec. 42-195. Collection of management fees.**

Any amounts approved for the budget at the initial financial meeting, an annual financial meeting or special meeting shall immediately become a lien upon all parcels within the management district as provided for in the enabling legislation, in proportion, in the case of each parcel, to the relative weighted value of that parcel as defined herein, and shall be payable as established at the initial financial meeting, annual financial meeting or special meeting, as the case may be. The relative weighted value shall, for any parcel, be equal to the quotient resulting from dividing the assessed value of that parcel, as established by the town assessors' office for general tax purposes, by the assessed values of all parcels, as so established, situated within the limits of the management district. The lien hereunder shall endure as provided in the enabling legislation.

Within 60 days after the approval of any budget at the initial financial meeting or any annual financial meeting or special meeting the board of directors shall cause the collector/assessor to mail to the owners of each parcel of land located within the management district bills for the collection of the amounts due with respect to each parcel, with the bills in each case addressed to such owners in the same manner as, and mailed via first class mail to the mailing address specified in the records of the town assessors' office for the mailing of real estate tax bills, unless a successor or successors has been established as provided herein, in which case the bill shall be so mailed to such successor or successors to the address, if any, provided to the board of directors by such successor or successors. Parcels owned by the same person or persons may be included in the same bill. The amount due with respect to any parcel shall be determined by multiplying that parcel's relative weighted value by the amount of the budget, as approved. Bills shall be payable in full on or before the thirtieth day after they have been mailed or in any other manner as may have been established at the initial financial meeting or any annual financial meeting or special meeting. Amounts due, and any costs incurred in connection with the collection of management fees or the enforcement of the lien securing them shall, in addition to being added to the amount of the lien, be the personal liability of all owners of a parcel at the time the lien arises, which liability shall be joint and several with respect to all owners of the parcel, in favor of the management district, shall be payable as aforesaid and shall bear interest and penalties in the same manner as determined under law with respect to real estate taxes.

The treasurer shall upon request and for a fee of \$25.00 issue a certificate which shall state any amounts of management fees that are due and owing on the date said certificate is given. Any such certificate may be recorded within 150 days after its date with the town clerk in the land evidence records, and if so recorded shall operate to discharge the parcel of real estate specified from the lien of all amounts then due for management fees which do not appear by said certificate to be then due and owing, except such fees that are the subject of a recorded notice or statement of lien, which such notice or statement of lien can be discharged by specific release, all as hereinafter provided; but a certificate issued under this section shall not affect the obligation of any person liable for the payment of any management fee by reason of being the assessed owner of such parcel of real estate at the time any such lien arose.

Collection and enforcement of the liens securing amounts due for management fees shall be in the same manner as provided for the collection of taxes by municipalities in this state, or as may otherwise or hereafter be permitted or established by law.

( Amd. of 12-10-18 )

## **Sec. 42-196. Officers.**

The officers of the management district shall be composed of between five or seven members, of which clerk, collector/assessor, treasurer, and gate keeper are standing members and they shall be collectively referred to as the board of directors. Each shall, except in the case of death, resignation or disability or removal from office for cause, hold office for two years and until their respective successors are elected. The persons who shall serve

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as the initial board of directors shall be appointed by the town council as soon as reasonably possible after the passage of this article, and they shall serve until their respective successors are elected at the initial financial meeting.

- (1) *Board of directors.* The board of directors shall consist of the officers of the management district, whether appointed by the town council, or elected at the initial financial meeting or any subsequent annual financial meeting or special meeting.
  - a. The board of directors shall elect one of its members as chairperson, who shall not be the clerk, and one of its members as vice chairperson. The chairperson, and in the chairman's absence, the vice chairman, shall preside at all meetings of the management district and shall conduct all meetings in accordance with Roberts Rules of Order (latest revision).
  - b. The board of directors shall appoint all committees, subject to confirmation by a majority vote thereon at any meeting.
  - c. The board of directors, at each annual financial meeting, shall make a written report to the owners of parcels of the state of affairs of the management district. Financial and other records of the management district shall be open for inspection by the owners of properties within the management district at reasonable times and upon reasonable notice.
  - d. Whenever a vacancy shall occur in the board of directors either through death, resignation or disability or removal for cause, the remaining members of the board of directors shall appoint an owner of a parcel to serve in such capacity until the next annual financial meeting or special meeting, and until his or her successor is elected.
  - e. The board of directors shall have the authority to retain legal counsel at an annual cost to be determined by a majority vote thereon at any meeting. Said legal counsel shall be available in an advisory capacity for all committees of the management district and shall render legal opinions, whenever requested to do so, on any question pertaining to the management district.
  - f. The board of directors, acting in behalf of the management district, shall have the right to sue and be sued in the courts of this state having jurisdiction to hear, try or determine such causes. Any elected or appointed district official, employee or member of the management district is entitled to all rights and benefits of indemnification as set out or referred to in the enabling legislation.
- (2) *Clerk.* The clerk shall on behalf of the board of directors give notice of the initial financial meeting and every annual financial meeting or special meeting of the management district by notifying all property owners by mail as herein provided. The clerk shall take the minutes of all meetings and shall be held responsible for the management of same.
- (3) *Treasurer.* The treasurer before proceeding to discharge these duties shall, if required so to do after a majority vote, give bond to the management district in such sum and with such surety as may be determined by said vote, which will provide for the faithful discharge of the duties of office. The premium for said bond shall be paid by the management district. Said bond shall be deposited with the town council. The treasurer shall pay out and expend only those funds that are authorized by general or specific vote of the management district at the initial financial meeting or any annual financial meeting or special meeting. The treasurer shall have the authority to borrow such sums that may be so authorized at the initial financial meeting, annual financial meeting or special meeting, and shall have the authority to invest any surplus funds, subject to the advice and consent of the board of directors, in any interest-bearing accounts as provided by law.
- (4) *Collector/assessor.* The collector/assessor, before proceeding to discharge these duties, shall, if required so to do after a majority vote, give bond to the management district in such sum and with such surety as may be determined by said vote, which will provide for the faithful discharge of the

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duties of office. The premium for said bond shall be paid by the management district. Said bond shall be deposited with the town council. The collector/assessor shall determine the management fees due with respect to any parcels. Upon approval of any budget at the initial financial meeting, annual financial meeting or special meeting the collector/assessor shall on behalf of the board of directors produce management fee bills based on the budget approved by the management district and shall immediately provide the treasurer with a true and complete list of the same and further shall maintain records of all collections and delinquent charges and provide annual written reports thereof. The bills shall be mailed as herein provided no later than 60 days after the initial financial meeting or any annual financial meeting or special meeting establishing amounts due and shall be payable within 30 days after they have been mailed, unless otherwise established at such meetings, and shall indicate when payments are due and the penalties for late payments. The collector/assessor shall pay over to the treasurer on the first day of each month the total management fees collected during the previous month, or at more frequent intervals, at the option of the collector/assessor. The collector/assessor may at any time while a management fee is due and owing but unpaid record a notice or statement of lien with the town clerk in the land evidence records indicating the amount due. Additional amounts thereafter becoming due shall be secured by said notice or statement without the necessity of recording further statements. The treasurer may discharge the lien by a release filed with the town clerk in the land evidence records that makes specific reference to the recorded notice or statement and states that all amounts thereunder have been paid.

The collector/assessor for said management district shall collect all management fees due, and for the purpose of collecting the same shall have the same powers and authority as are now by law conferred on collectors of taxes for towns in the state.

The collector/assessor shall be empowered, subject to unanimous approval of the board of directors, to appoint an agent for collection of management fees. Said agent at the time of appointment shall give bond to the management district in such sum and with such surety as the management district shall determine, which will provide for the faithful performance of the duties of said agent. The premium for said bond shall be paid by the management district. Said bond shall be deposited with the town council.

- (f) *Gate keeper.* The gate keeper shall on behalf of the board of directors manage the water level within the lake. The gate keeper shall be the point of contact for outside agencies to include the DEM, Exeter Emergency Management Personnel, URI Watershed Watch, contracted inspectors, and any other outside agency that has to do with the body of water and dam area of the lake. The gate keeper shall inspect the dam once per month per DEM guidelines and record all pertinent information. The gate keeper shall keep a written Log for the following: Dam Maintenance, Dam Leak Monitoring Program, and DEM Permit.
- (g) *Members at large.* The board of directors shall also include a minimum of one or maximum of three members at large.

( Amd. of 12-10-18 )

#### **Sec. 42-197. Reporting to town and department of environmental management.**

At least annually the management district shall submit complete and detailed reports to the town and the department of environmental management.

( Amd. of 12-10-18 )

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**Sec. 42-198. Amendments to article.**

In the event that the eligible voters for 15 parcels at any duly called meeting of the management district shall deem that this article should be amended or revised, then and in that event, the board of directors shall appoint a committee, approved by a majority vote at such meeting, to study such proposed amendment or revision. Said committee shall report its findings at the next annual meeting at which time the approval or disapproval of the proposed amendment or revision shall be voted upon. Upon approval of any amendment or revision by the management district, the same shall be referred to the town council during the current session, or if not in session at the time, the next session for its consideration.

Nothing herein shall be construed as limiting the adoption of or amendments to bylaws concerning the administration of the management district.

( Amd. of 12-10-18 )

**Secs. 42-199—42-210. Reserved.**