WEST VIRGINIA CODE: §7-25-11

§7-25-11. Election procedure for initial members of resort area board; subsequent elections; elections and procedures to fill board vacancies.

(a) Within ninety days of the adoption of the order creating the resort area district, a public meeting shall be held at which elections for the initial members of the board shall be held. the meeting shall be held at a location within the district not less than twenty days after the publication of the notice required by subsection (b) of this section.

(b) Prior to the meeting required by this section, the petitioners for the creation of the resort area district shall, using reasonable efforts, cause notice of the initial election meeting to be given to all owners of real property, including owners of commercial business property, located within the district. the notice shall be mailed to each owner of real property included in the resort area district as provided in subsection (h) of this section, posted in multiple, conspicuous public locations within the district and published at least thirty days prior to the date of the meeting as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for the publication is the resort area district. The notice shall provide, at a minimum, the following information:

(1) The purpose of the meeting;

(2) Descriptions of the board positions;

(3) A statement that only owners of real property, including owners of commercial business property, located within the district are eligible to make nominations for board positions or vote in the election;

(4) The location of the meeting;

(5) Electronic and physical addresses where nominations for board positions will be received by petitioners for the creation of the resort area district; and

(6) The date and time of the meeting.

(c) Nominations shall be made for each board position by persons eligible to vote for each board position. Nominations may be made at the meeting required by this section, by mail or by electronic means. Nominations made by mail or by electronic means must be received by the petitioners prior to the meeting to be valid. Persons nominated for board positions shall meet the criteria provided for each board position as set forth in subsection (b), section ten of this article. Nominations shall be made for each board position in the following manner:

(1) Only owners of residential, improved real property located within the resort area district may nominate persons for the three board positions provided for owners of or representatives of owners of residential, improved real property located within the resort

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area district;

(2) Only representatives of the resort operator or resort operators may nominate persons for the two board positions provided for representatives of the resort operator or resort operators located within the resort area district;

(3) Only owners of commercial business property located within the resort area district may nominate persons for the board position provided for an owner of or a representative of owners of commercial business property located within the resort area district; and

(4) Only owners of unimproved, developable real property located within the resort area district may nominate persons for the board position provided for an owner of or a representative of owners of unimproved, developable real property located within the resort area district.

(d) Following board member nominations, a vote shall be taken by written ballot for board members to be elected, but owners of any class of property may grant proxies to any person to cast the owner's ballot as if the owner were present in person. Voting shall occur in the following manner:

(1) Only owners of residential, improved real property located within the resort area district may vote for the three board positions provided for owners of or representatives of owners of residential, improved real property located within the resort area district. Each owner is entitled to one vote per unit or parcel of residential, improved real property he or she owns;

(2) Only a representative of each resort operator may vote for the two board positions provided for representatives of the resort operator or resort operators located within the resort area district;

(3) Only owners of commercial business property located within the resort area district may vote for the board position provided for an owner of or a representative of owners of commercial business property located within the resort area district. Each owner is entitled to one vote per unit of commercial business property he or she owns; and

(4) Only owners of unimproved, developable real property located within the resort area may vote for the board position provided for an owner of or a representative of owners of unimproved, developable real property located within the resort area district. Each owner is entitled to one vote per parcel of unimproved, developable real property that he or she owns.

(e) For purposes of voting in the initial election and in all subsequent elections for board members:

(1) The owners of each parcel or unit of real property are entitled one vote, irrespective of the number of owners of the parcel or unity;

(2) Fractional voting shall not be permitted; and

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(3) The vote pertaining to a parcel or unit shall be cast in accordance with the direction of the person or persons holding the majority interest in the parcel or unit, and in the event there is no majority, the vote shall be forfeited.

(f) Each board member shall be elected by a plurality of the votes cast for such board position.

(g) The petitioners for the creation of the resort area district shall be responsible for the costs of the initial election and meeting required by this section.

(h) For purposes of the mailing of notice to owners of real property required by this section, reasonable efforts shall be made to mail such notice to all owners of real property included within such resort area district using the real property tax records and land books of the county in which such district is located and any lists maintained by a resort operator or homeowners association within such district. Such notice shall be also mailed to each president of a homeowners association, if any, located within a district which has registered with a resort operator to receive such information. Immaterial defects in the mailing of such notices shall not affect the validity of such notice.

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