WEST VIRGINIA CODE: §7-25-6

§7-25-6. Notice to property owners before creation or expansion of resort area district; form of notice; affidavit of publication; election.

(a) Before the adoption of an order creating a resort area district, the governing body shall cause notice to be given to the owners of real property located within the proposed resort area district that the order will be considered for adoption at a public meeting of the governing body at a date, time, and place named in the notice and that all persons at that meeting, or any adjournment of the meeting, shall be given an opportunity to protest or be heard concerning the adoption or rejection of the order. At or after the meeting the governing body may amend, revise, or otherwise modify the information in the petition for formation or expansion of a resort area district as it may consider appropriate after considering any comments received at the meeting.

(b) A resort area district may not be created by a governing body if, at the public meeting required by this section, written protest is filed by at least 25 percent of the owners of real property proposed to be included within the district. In the event of a protest, the petition for the creation of the resort area district may not be resubmitted to the governing body for a period of at least one year from the date of the original submission.

(c) At least 60 days prior to the date of the meeting, the notice required by this section shall, using reasonable efforts, be mailed to each owner of real property to be included in the proposed resort area district as provided in subsection (g) of this section, posted in multiple, conspicuous, public locations within the proposed district and published as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code, and the publication area for the publication shall be the county in which the proposed resort area district is located. The notice shall be in the form of, or substantially in the form of, the following notice:

"NOTICE TO ALL PERSONS OWNING PROPERTY LOCATED WITHIN _____ (here describe the boundaries of the proposed resort area district) IN THE COUNTY OF _____ (name of county):

A petition has been presented to the county commission of the County of _____ (name of county) requesting establishment of a resort area district and authorization of a resort service fee under §7-25-1 *et seq*. of the code of West Virginia, 1931, as amended, to _____ (describe potential projects and/or services to be provided) in the county of _____ (name of county) as the county commission may deem proper. A copy of the petition is available in the office of the clerk of the county commission of the County of _____ (name of county) for review by the public during regular office hours.

The petition to create a resort area district will be considered by the county commission at a public meeting to be held on the __ day of _____, _____, at __.m. at _____. Any

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owner of real property whose property may be affected by the creation of the above-described resort area district, and any owner of real property whose property is not located within said resort area district but wishes his or her property to be included, will be given an opportunity, under oath, to protest or be heard at said meeting or any adjournment thereof:

_____ (name of clerk)

(d) An affidavit of publication of the notice made by newspaper publisher, or a person authorized to do so on behalf of the publisher, and a copy of the notice shall be made part of the minutes of the governing body and spread on its records of the meeting described in the notice. The service of the notice upon all persons owning any interest in any real property located within the proposed resort area district shall conclusively be determined to have been given upon completion of mailing as provided in subsection (g) of this section and the newspaper publication.

(e) The petitioners shall bear the expense of publication of the notice, the meeting, and the mailing of the proposed order, as requested by subsection (f) of this section.

(f) After the public meeting and before the governing body may adopt an order creating a resort area district, the governing body shall, using reasonable efforts, mail a true copy of the proposed order creating the resort area district to the owners of real property in the proposed district as provided in subsection (g) of this section and shall post copies of the proposed order in multiple, conspicuous, public locations within the proposed district. Unless waived in writing, any petitioning owner of real property has 30 days from mailing of the proposed order in which to withdraw his or her signature from the petition in writing prior to the vote of the governing body on the order. If any signatures on the petition are withdrawn, the governing body may adopt the proposed order only upon certification by the petitioners that the petition otherwise continues to meet the requirements of this article. If all petitioning owners of real property waive the right to withdraw their signatures from the petition, then the governing body may immediately adopt the order.

(g) For purposes of the mailing of each notice to owners of real property required by this section, reasonable efforts shall be made to mail the notice to all owners of real property proposed to be included within the resort area district using the real property tax records and land books of the county in which the proposed district is located and any lists maintained by a resort operator or homeowners association within the proposed district. The notice shall be also mailed to each president of a homeowners association, if any, located within a proposed district which has registered with a resort operator to receive the information. Immaterial defects in the mailing of the notices shall not affect the validity of the notices: *Provided*, That in the case of any resort area district to be voted upon after the effective date of this amendment adopted during the 2015 regular session of the Legislature, any notice shall be mailed to the property owner’s primary place of abode by certified mail, return receipt requested.

(h) Upon verification of a petition to expand the district, the resort area board shall set a

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date, time, and place for a vote of the qualified voters of the resort area district to be taken upon the proposed expansion.

(1) At least 60 days prior to the vote, the notice required by this section shall, using reasonable efforts, be mailed to each owner of real property in the resort area district and to each owner in the proposed resort area district expansion, posted in multiple, conspicuous, public locations within the proposed district, and published as a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code, and the publication area for the publication shall be the county in which the resort area district is located. For the purpose of notice of proposed expansion, "reasonable efforts" means mailing to the owner or owners of real property in the resort area district, using the address of record at the resort area district office, as of 90 days prior to notice. The notice shall be in the form of, or substantially in the form of, the following notice:

"NOTICE TO ALL PERSONS OWNING PROPERTY LOCATED WITHIN _____ (here describe the boundaries of the existing resort area district) IN THE COUNTY OF _____ (name of county) and TO THE OWNERS OF PROPERTY IN THE PROPOSED EXPANSION AREA (here describe the boundaries of the proposed expansion to the existing resort area district) IN THE COUNTY OF _____ (name of county):

A verified petition has been presented to the resort area district (name of county) requesting expansion of a resort area district to _____ (describe boundaries of expansion area) in the county of _____ (name of county). A copy of the petition is available in the office of the resort area district of the County of _____ (name of county) for review by the public during regular office hours.

The vote to approve or disapprove the expansion of the resort area district will be held on the following date (insert date), at the following time (insert time) and at the following location (insert location).

_____ (name of resort area board chairperson)"

(2) All owners of real property in the existing resort area district and proposed expansion shall be eligible to vote.

(3) The owners of each parcel or unit of real property are entitled to one vote, irrespective of the number of owners of the parcel or unit.

(4) The ballots shall have written or printed on them the words:

"/ / For Expansion

/ / Against Expansion"

(5) Electronic submission of ballots is permitted in accordance with procedures in the bylaws of the resort area district. If electronic submission is used, the notice will include the

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electronic information for transmission.

(6) A simple majority of all legal votes cast in favor of expansion will result in expansion of the resort area district.

(7) A copy of the boundaries of the resort area district as expanded shall be published on the resort area district's website and provided upon request.

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