

Bylaws of the Snowshoe Resort Community District

Modified by:

Resolution 01-19 – Replaced Section 3.06 – Concerning meeting notifications

Resolution 02-19 – Replaced Section 6.02 – To conform to WV Code, §7-25-12, concerning the maximum amount of assessments

Resolution 03-19 – Modified Section 1.05 added a definition “Public Road(s)”

Resolution 01-20 – Replaced Section 4.06 and 4.10 concerning precincts and elections

Resolution 01-21 – Replaced Section 9.01, 9.02, 9.03, 9.04 and 9.05 concerning Committees

Resolution 02-21 – Modified Section 1.05 c), added a definition “Parcel “and replaced 4.07 concerning Commercial Business Property

Resolution 01-22 – Modified Sections 2.01 e), 2.03, 6.01, 6.03, 6.04, 6.05, 6.06, 8.01, 9.03 a) (2), 9.03 f) and 10.04 a) (3) (d) in compliance with Statute changes contained in 2022 SB 662; Updated the Title page with all applicable Resolutions; Modified Section 3.11 concerning Order of Business and Updated Section 5.07 District’s Office Address

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Bylaws of
Snowshoe Resort Community
District Located in
Snowshoe, West Virginia
Adopted January 14, 2019
And Modified with
Resolutions; 01-19, 02-19,
03-19, 01-20, 01-21, 02-21
and 01-22

Article I
General Provisions

Section 1.01 Applicability. These Bylaws provide for the governance of the Snowshoe Resort Community District (SRCD), also herein called the “District”, pursuant to the requirements of WV Code, Chapter 7, Article 25 Resort Area District Act (RAD Act). The District located in Pocahontas County, West Virginia, and more particularly described in the documents of the Pocahontas County Commission including but not limited to the Boundary Map and description and order creating the Snowshoe Resort Community District (SRCD) endorsed by the Pocahontas County Commission on October 27th, 2017.

Section 1.02 General Governance. All applicable Federal and State statutes, rules and regulations, specifically the RAD Act; Open Governmental Proceedings Act, Chapter 6, Article 9A of the WV Code (“OGPA”); The Order of the Pocahontas County Commission entered October 27, 2017; these Bylaws; and, all applicable Snowshoe Resort Community District (SRCD) Procedures and Standing Rules shall control the governance and proceedings of the Snowshoe Resort Community District (SRCD).

Section 1.03 Name. The official name of the District shall be **Snowshoe Resort Community District, (SRCD or District).**

Section 1.04 Office. The office of the District and the Executive Board shall be located within the District boundaries.

Section 1.05 Definitions. Terms used herein without definition shall have the meanings specified for such terms in common and accepted usage (or, if not defined herein, the meanings specified for such terms in the WV Code Chapter 7 Article 25). The following terms have the following meanings in these Bylaws:

- a) “Act” means Chapter 7, Article 25 of the WV Code, as amended from time to time, more commonly known as the “Resort Area District Act”.
- b) “Business or establishment” means any commercial organization that operates on a for-

profit basis and participates in selling goods and/or services to consumers.

- c) "Commercial Business Property" means a parcel of real property that is used for business, is located within the boundaries of the District and is open to the public.
- d) "Commercial Entity" means any person, firm, company, corporation, or association operating a commercial enterprise, which provides goods and/ or services within the

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boundaries of the District and thus obligated to account for and remit Resort Service Fees to the SRCD.

- e) "Common Expense(s)" means all expenditures made by, or financial liabilities of, the District, including any statutorily mandated allocations to reserves.
- f) "Garage Sale" is an informal, onetime event for the sale of used goods by private individuals, in which sellers are not required to obtain a business license or a Transient vendor permit.
- g) "Instruments" means the Order and the Bylaws of the SRCD.
- h) "Land" means that certain real property located in Pocahontas County, West Virginia, and more particularly described in the records of the Pocahontas County Commission.
- i) "Limited Common Expenses" means expenses separately assessed against more than one but less than all the Owners generally in accordance with provision or use of a project or service.
- j) "Mortgage" means a secured and recorded deed of trust or mortgage encumbering real estate.
- k) "Mortgagor" means a Lender holding a Mortgage.
- l) "Officer" shall mean those persons elected by the Board to serve as Chairperson, Vice Chairperson, Secretary and Treasurer.
- m) "Owner" means any Person that owns real property in the District or a present possessor interest in the legal title to real Property in the District. The term "Owner" does not include
 - (i) any Person having a future, springing, reversionary, contingent or otherwise non-present possessor interest in the real property; (ii) any Person having any interest in real property solely as security for an obligation, (iii) any Person having a leasehold interest in the Unit, or (iv) any Person who owns an interest in any entity, trust or other person, firm or corporation that holds legal title, or a portion thereof, to real property (the Corporate Person being the Owner in that instance).
- n) "Parcel" shall mean a lot or parcel of real property as set forth on a plat covering such real property, or, in the event no plat exists, as set forth on the tax maps of Pocahontas County.
- o) "Person" means any individual, partnership, joint venture, corporation, trust, Limited Liability Company, unincorporated organization, association, joint stock company, or any other form of legally defined association or entity.
- p) "Public Road(s)" located within the District boundaries are defined as those roads, streets, lanes, paths, bridges and other byways, owned by or leased to and under the control of the SRCD. The words or terms, "public road" shall be deemed to include, but shall not be limited to, the right-of-way, roadbed and all necessary culverts, sluices, drains, ditches, waterways, embankments, slopes, retaining walls, bridges, tunnels and viaducts necessary for travel, dispatch of freight, ingress and egress by the public and which the public is not generally denied access and the right to use.
- q) "Professional Services" are those services that require holding professional licenses such as architects, accountants, engineers, and attorneys.
- r) "Projects" means the design, construction, reconstruction, acquisition, renovation, extension, repair or replacement of public facilities located in the District.
- s) "Property" means the Land and all improvements and appurtenances, as detailed on each tax ticket of the Pocahontas County West Virginia Tax Records, located within the SRCD boundaries.
- t) "Reserved Common Element" means such common elements which have been designated by the Board for the exclusive use of less than all of the Owners within the

District.

- u) "Residential Unit" means a physical portion of improved property, located within the District, designated for separate ownership and occupancy and used for residential purposes, the boundaries of which are described in an individual deed as recorded in the Office of the Clerk of Pocahontas County, WV For the purposes of these Bylaws, "residential, improved real property" includes, but is not limited to, condominium units, townhouses, single-family residences, and multi-family residences.

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- v) "Resort Operator" means any entity owning and operating recreational facilities within the SRCD boundaries that generates more than ten million dollars (\$10,000,000) in annual gross revenues.
- w) "Resort Service Fee" (RSF) means the fee imposed on the purchase of goods and services sold within the SRCD by any commercial entity or business such as hotels, motels, camping facilities, lodges, restaurants, fast-food stores, taverns, bars, lounges, recreation or sport providers, rentals, rental agents, entertainment facilities, and all other public establishments.
- x) "Undeveloped Property" means that portion of unimproved real estate, located within the District, designated for future residential or commercial use or development, as set forth on a plat detailing such proposed use or development, or, in the event no plat exists, as classified by the Assessor of Pocahontas County, the boundaries of which are recorded in an individual deed in the Pocahontas County Courthouse records. Specifically excluded from this definition is that portion of land which cannot be developed. For example, lakes, ski slopes, and designated reserves such as wetlands, etc.
- y) "Voting Class" means one of the four separate voting classes known as Residential Improved Real Property Owners; Commercial Business Property Owners; Undeveloped, Developable Real Property Owners; and Resort Operator(s). Each *Voting Class* is a separate entity and elects statutorily corresponding Board members.

Article II Snowshoe Resort Community District Board

Section 2.01 Board Composition.

- a) The SRCD Board shall consist of seven (7) members, and each member shall have one (1) vote. The Board shall consist of:
 - (1) Three (3) Board members shall be an owner or a representatives of owners of Residential, Improved Real Property located within the District;
 - (2) Two (2) Board members shall be representatives of the Resort Operator(s) located within the District;
 - (3) One (1) Board member shall be, at the time of nomination and as of the day of their election, an owner or representative of Commercial Business Property owners located within the District, however owners of residential, improved real property who rent their property are excluded;
 - (4) One (1) Board member shall be, at the time of nomination and as of the day of their election, an owner or a representative of owners of Unimproved Developable Real Property owners located within the District.
- b) **Officers.** At the first meeting of the Board after January 1st of each year, the Board shall select officers by electing one of its members to serve as Chairperson, one member to serve as Vice-Chairperson, one member to serve as Treasurer and one member to serve as Secretary. Voting by the Board for officers shall be by simple majority. If the member selected as an officer resigns or ceases for any reason to be a member of the Board, the Board shall elect one of its members at the next regularly scheduled meeting to serve in that officer position until the next annual organizational meeting.
 - (1) **Chairperson**
 - (a) The Chairperson shall serve for a term of one (1) year and may be re-elected for

a term of one (1) additional year and shall not be re-elected as Chairperson for at least one (1) year thereafter. A succeeding Chairperson shall be elected from a different voting class than the outgoing Chairperson.

- (b) The Chairperson shall preside at all meetings of the Board and shall vote as any other member of the Board.
- (c) In the absence or inability of the Chairperson to preside at any meeting, the Vice-Chairperson shall preside. In the absence or inability of both the Chairperson and Vice-Chairperson to preside at any meeting, the remaining Board members shall select a temporary Chairperson to preside.

(2) Vice-Chairperson.

- (a) The Vice-Chairperson shall serve for a period of one (1) year and shall preside at any meeting of the District when the Chairperson is absent.
- (b) The Vice-Chairperson shall assist the Chairperson as directed.

(3) Secretary. The Secretary shall serve for a period of one (1) year and shall keep a record of all proceedings of the Board, which shall be made available for inspection as other public records.

(4) Treasurer. The Treasurer shall serve for a period of one (1) year and shall maintain records of all financial matters relating to the District, which shall also be made available for inspection as other public records.

c) The members of the Board, and the Chairperson, Secretary, and Treasurer thereof, shall make available, at all reasonable times and upon reasonable notice, all of its books and records pertaining to the District's operation, finances, and affairs for inspection and audit.

d) **Term.** Except for the resignation or removal of a Board member, the members of the Board shall hold office for a term of four (4) years or until their respective successors shall have been elected by the District and sworn in.

e) **Board Vacancies.** Vacancies on the Board shall be filled by a special election within 120 days of the vacancy, **unless** the vacancy occurs within the last 365 days of the board member's term. The special election shall be on a date specified by the board, which shall not be less than forty-five (45) days later than publication of notice of the election. If the vacancy occurs within the last three hundred sixty-five (365) days of the board member's term, the board shall appoint a replacement who meets the qualifications for the vacant seat. Recommendations for the replacement shall be made by the type of ownership category for the seat vacated. The new board member shall serve out the remainder of the unexpired term and may stand for subsequent election as long as he or she is eligible for the seat. The publication process for an election to fill a vacancy shall be: in compliance with Section 14.01 of these Bylaws; as a Class II legal advertisement in compliance with the provisions of WV Code §59-3 and the publication area for the publication is the District; and as set forth in Article IV of these Bylaws. The publication process for an election to fill a vacancy shall be the same as set forth in §7-25-11(c), §7-25-11(d), and §7-25-11(e) of the West Virginia code, and only those owners eligible to vote for the board member whose departure from office caused the vacancy shall be eligible to vote to replace the member. A vacancy in the office of a board member elected or appointed as a primary resort operator representative, may be filled by a direct appointment of the primary resort operator, rather than by election

Section 2.02 Powers and Duties

- a) Subject only to sub-paragraph (b) of this Section, the Board may act in all instances on behalf of the District and shall have all of the powers and duties necessary for the administration of the affairs of the District.
- b) The Board may not act on behalf of the District to (i) amend the Petition or (ii) to terminate the District. The Board shall act in accordance with West Virginia Law and these Bylaws. In the event of conflict, West Virginia Law shall be primary to these Bylaws in resolving any conflict.
- c) The Board may delegate to one of its members, or to a person employed for such purpose, the authority to act on behalf of the Board, without the necessity of a meeting of the Board for that purpose, on such matters relating to the duties of the District Manager as defined in Article X of these Bylaws, if any, which may arise between meetings of the Board as the Board deems appropriate.
- d) The District shall have the responsibility of establishing and administering the means and methods of collecting Resort Service Fees, assessments and charges, arranging for the disbursement of funds to pay for Services and Projects and performing all of the other acts that may be required or permitted to be performed by the District.
- e) In addition to the duties permitted to be exercised by, or imposed by these Bylaws or by any resolution of the District that may hereafter be adopted, the powers of the Board shall include, but shall not be limited to, the following:
 1. Prepare and adopt an annual budget.
 2. Determine and assign Resort Service Fees to be collected not to exceed two percent (2%) until August 1st, 2021; thereafter the amount to be collected shall not exceed five percent (5%) according to Article V of these Bylaws.
 3. Determine and assign assessments not to exceed an aggregate of two percent (2%) per annum of assessed value until August 1st, 2021 and thereafter the aggregate cap shall not exceed five percent (5%) per annum of assessed value to defray the costs and expenses of the District and establish the means and methods of collection of such assessments from the owners according to Article VI of these Bylaws.
 4. Make or contract for the provision of the operation, care, upkeep, and maintenance of properties and services within the District and in accordance with Article VIII of these Bylaws.
 5. Designate, hire, and dismiss any and all personnel necessary for the maintenance and operation of the District and provide services for the District and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties, which supplies and equipment shall be deemed the property of the District.
 6. Collect all Resort Service Fees and Assessments, deposit the proceeds thereof in bank depositories designated by the Board, and use the proceeds to carry out the administration of the District.
 7. Open bank accounts on behalf of the District and designate the signatories thereon.
 8. Charge interest, levy fines and penalties, and create liens on unpaid Assessments and Resort Service Fees.
 9. As required, provide interpretations of the, Bylaws, Ordnances, Rules,

Regulations and Resolutions of the District.

10. Acquire, own, or hold, in its name, real or personal property, including the granting and acceptance of easements and rights-of-way, by purchase, lease, gift, or otherwise, within or contiguous to the boundaries of the SRCD for District purposes, as well as obtain options for the acquisition of real property and to sell or dispose of the property real and personal of the District.
11. Obtain and carry insurance against Errors & Omissions, casualties and liabilities, as provided in Article XII of these Bylaws and pay the premiums thereof.
12. Keep books with detailed accounts in chronological order of the receipts and expenditures of the District and the administration of the District property, specifying the expenses for services and maintenance of District property and any other expenses incurred. Such records shall be available for examination by the Public during normal business hours of the District. All books and records shall be kept in accordance with U. S. Generally Accepted Accounting Principles (USGAAP), and the Board shall have the authority to retain an independent CPA who shall audit the same annually.
13. Maintain internal controls using the Committee of Sponsoring Organizations (COSO) Internal Control – Integrated Framework that will enable the District to effectively and efficiently develop and maintain a system of internal controls to enhance the likelihood of achieving the objectives and adapt to changes in the operating environment.
14. Prepare and update a Capital Reserve Study and establish a fund for the Capital Reserve.
15. Deposit a minimum of 25% of all Resort Service Fees collected into a Capital Reserve account that cannot be used except in compliance with West Virginia Law and Article VIII of the District's Bylaws.
16. Borrow money and incur indebtedness and other obligations and evidence the same by certificates, notes, or debentures on behalf of the District according to Article VII of these Bylaws.
17. Raise funds by the issuance and sale of assessment bonds and resort service fee bonds in accordance with Article VII of these Bylaws.
18. Design, plan, finance, develop, construct, acquire, extend, improve, and complete project(s) on behalf of the District according to Article VIII of these Bylaws.
19. Apply for and accept from any public or private source appropriations, grants, gifts, bequests, devises, contributions, and any other benefits available for use in furtherance of District purposes, and to use the same for the benefit of the District.
20. Enter into agreements with Pocahontas County to plan, develop, construct, acquire, or improve a project jointly.
21. Have and use a corporate seal and alter the same.
22. To sue, be sued, and be a party to suits, actions, and proceedings.
23. Do any and all other things necessary to carry out the purposes of the Act and not in violation of the Constitution of State of West Virginia as may be necessary or incidental to the provision of services or the construction and completion of a project.

Section 2.03 Board Compensation. The members of the Board may serve with

reasonable compensation as the board of directors may fix, except where prohibited by law, and shall receive reimbursement for actual and necessary expenses incurred in connection with the performance of their duties.

Section 2.04 Board Qualifications. The following rules shall define the qualifications for eligibility to serve on the Board:

- a) To be eligible for election as a member of the Board, a person must be at the time of nomination, alone or together with one or more other Persons, an Owner or nominated by an Owner.
- b) To be eligible for election to the Board, a Person must have attained the age of eighteen (18) at the time of nomination.
- c) No Person(s) may simultaneously hold more than one seat on the Board.
- d) To be eligible for election as a member of the Board, a Person shall not be more than sixty (60) days delinquent in any financial obligations to the District.

Section 2.05 Ethics. All Board members shall be familiar with and comply in all respects with the West Virginia Governmental Ethics Act (WV Code § 6B-2-5), which addresses, in part, issues of fiduciary duties of Board members, voting, disclosure of conflicts of interest, use of public office for private gain, gifts, interests in public contracts, and confidentiality. Each and every member of the Board shall forthwith report to the West Virginia Ethics Commission any violation of the West Virginia Governmental Ethics Act whether it involves such member personally or some other Board member. Any Board member found to have violated the West Virginia Governmental Ethics Act by a specific finding by the Ethics Commission may be expelled as a member of the Board by a unanimous vote the remaining members of the Board. In the event of such vote and prior thereto the subject member may present such testimony and evidence to the Board as the subject member deems appropriate. Such member may act in his own behalf or through counsel. In the event of a vote not to expel such member, such member shall not be entitled to costs or fees for such proceedings. In the event the member is expelled, such member shall be liable to the Board for all fees and costs incurred by the Board regarding such vote. Replacement of any member so removed shall be in accordance with the replacement procedures set in these Bylaws.

Section 2.06 Board Member Removal

- a) Any Board member may be removed from office in case of incompetence, neglect of duty, gross immorality, or malfeasance in office, upon a unanimous vote of the remaining Board members. Such member shall be granted a hearing if desired according to Section 2.05 above.
- b) In the event of any vote to remove a Board member from a Board with less than seven (7) members, such vote must be unanimous in order to remove the member.
- c) The vacancy created shall be filled according to Section 2.01(d) above and Article IV.
- d) Any action of the Board which is taken while one or more Board positions are vacant must be unanimously approved by the remaining active serving Board members.

Article
III
Meetings

Section 3.01 Place of Meetings. Meetings of the Board shall be held within the District.

Section 3.02 Regular Scheduled Meetings. The Board shall meet a minimum of quarterly in January, April, July, and October at such place as to be determined by the Board. A schedule for the next calendar year's regular Board meetings shall be posted on the District website.

Section 3.03 Special Meetings. The Chairperson shall call a special meeting of the Board if so directed by petition of a simple majority of the Board or upon a petition signed and presented to the Secretary by not less than twenty-five percent of Owners within a voting class or by a Resort Operator. The giving of notice shall comply with Section 14.01 of these Bylaws and also shall comply with the Open Governmental Proceedings Act, Chapter 6, Article 9A of the WV Code ("OGPA").

The notice of any special meeting shall state the time, place, and purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 3.04 Emergency Meeting. The Chairperson may call an emergency meeting if, in the opinion of the Chairperson such delay in the decision-making process would result in significantly increased cost of a service or project or irreparable harm to the District. The giving of notice shall comply with Section 14.01 of these Bylaws and shall comply with the Open Governmental Proceedings Act, Chapter 6, Article 9A of the WV Code ("OGPA").

The notice of any emergency meeting shall state the time, place, and purpose thereof and shall be posted as far in advance of the meeting as practical. No business shall be transacted at an emergency meeting except as stated in the notice.

Section 3.05 Public Meeting. The Chairperson shall call a public meeting of all affected Owners and the Board for the purpose of allowing Owners to vote for or against a proposed Assessment in compliance with Section 6.05 of these Bylaws. The giving of notice shall comply with Section 14.01 of these Bylaws and shall comply with the Open Governmental Proceedings Act, Chapter 6, Article 9A of the WV Code ("OGPA").

Section 3.06 Notices of Meeting. Modified by Resolution 01-19. All notices of meetings shall be in accordance with the Open Governmental Proceedings Act, Chapter 6, Article 9A of the WV Code ("OGPA"). The secretary is responsible for posting notices of Board meetings and Committee Chairperson is responsible for posting notices of committee meetings. Both shall be in accordance with Section 14.01 of these Bylaws and the OGPA.

Section 3.07 Conduct of Meetings. All meetings of the SRCD Board will be conducted in accordance with these Bylaws, the Standing Rules, and the OGPA. The Chairperson may invite public input to discussion **on a specific topic** as deemed appropriate. The Chairperson may appoint a person to serve as parliamentarian at any meeting of the District.

Section 3.08 Quorum. The presence of at least four (4) of the directors shall constitute a quorum at all meetings of the District. Any meeting where a Quorum of the directors is not present at roll call shall be immediately adjourned and the Secretary shall reschedule said meeting for a certain date. A member of the Board who participates in a meeting by telephone or electronic means shall be deemed present at the meeting for quorum as well as all other

purposes. Proxies given by any member shall not be valid nor recognized. The presence or absence of a quorum does NOT alter nor negate the requirement for six (6) of seven (7) statutorily mandated majority votes on those issues so identified in these Bylaws or the Act.

Section 3.09 Statutorily Mandated Super Majority Board Vote Required. A six (6) of seven (7) statutorily mandated super majority vote shall be required of the Board for adoption, modification, or repeal of any of the following:

- a) Resort Service Fee
- b) Assessment
- c) Service or Project
- d) Borrowing, any Indebtedness or Issuance of Bonds
- e) Budget
- f) Bylaws
- g) Professional Services
- h) Residential Precinct creation, elimination and changes to including precinct borders

The absence, vacancy, resignation, abstention, or recusal of a Board member(s) does NOT negate the requirement for the statutorily mandated majority vote.

Section 3.10 Board Voting. Each Board member is allocated one vote. Voting by Board members may be in person, by phone, or electronically. Board member voting may NOT be via Proxy.

Section 3.11 Order of Business. The order of business at all Regular meetings of the District Board shall be as follows:

- a) Roll call
- b) Voting Class tabulation and results (when so required)
- c) Election of Board officers (when so required)
- d) Approval of minutes of preceding meeting
- e) Public comment (maximum of 5 minutes per speaker)
- f) Chairperson's Report
- g) District Manager's Operational Report
 - 1. Fire Chief's Report
 - 2. Chief Ranger's Report
- h) Committee Reports
 - 1. Finance report
 - 2. Governing Documents
 - 3. Communications
 - 4. Services & Projects
 - 5. Election
 - 6. Architectural Regulations and Standards Enforcement
- i) Ad Hoc Committees (when so required)
- j) Unfinished business (specify items to be discussed)
- k) New business (specify items to be discussed)
- l) Adjournment

Article IV

Election of Board Members

Section 4.01 Voting Classes. Voting shall be determined by the classification of Property owned. There shall be four (4) distinct Voting Classes: (a) Resort Operator(s), (b) Residential, Improved Property Owners, (c) Commercial Business Property Owners, and (d) Unimproved, Developable Real Property Owners. An Owner may hold vote(s) in more than one Voting Class and may vote for the election of Board members in all classes in which they qualify. For purposes of this section, if a parcel of real property is owned by one or more entities (such as a corporation, limited liability companies, or other entity), then the following are also eligible to serve on the Board as an owner with respect to such parcel: (1) Any person having an ultimate beneficial interest in the parcel, whether directly or indirectly and regardless of the number of intermediate ownership entities; and (2) any person designated at the outset of the election as authorized, by an owning entity, to serve on the Board as an owner for that particular parcel.

Nothing in this section, however, creates any additional voting rights to the owners of a single parcel of real property, and each parcel of real property shall be entitled to only one vote, regardless of the number of owners participating in ownership of the parcel. Furthermore, nothing in this section authorizes the owners of real property of a voting class to vote regarding a Board position reserved to another voting class.

Section 4.02 Fractional Voting. Each parcel of real property shall be entitled to only one (1) vote, irrespective of the number of individuals that may be partners or co-owners. Fractional voting shall not be permitted. The vote pertaining to a parcel of real property shall be cast in accordance with the direction of the person or persons holding the majority interest in such parcel. Challenges or disputes among individual owners of a single property shall NOT be settled by the District and shall result in the disputed vote being disallowed. The disqualification or nullification of a disputed vote shall be at the sole discretion of the Election Committee Chairperson and shall be final.

Section 4.03 Proxies. A proxy may be used by owners of any class of property to grant proxy authority to any person to vote the owner's ballot at any meeting or election as if the owner were present in person. The proxy may be mailed or transmitted electronically to the individual named by the proxy. The individual named as the proxy must be physically present at the meeting when casting the vote. A proxy must contain the following:

- a) The name of the owner having the voting right for a parcel of real property;
- b) The Voting Class and Precinct if applicable;
- c) The location/address of the real property;
- d) The name of the individual being named a proxy to cast a vote for the owner;
- e) The date and signature of the real property owner granting the proxy;
- f) A statement for the purpose, location, date, and time for the meeting or election for which the proxy is granted.
- g) Identify all qualified candidates and/or issues to be voted on.

All proxies must be kept by the SRCD for a minimum period of 1 year from use for public review. The Elections Committee will be responsible for validation of all proxies.

Section 4.04 Resort Operator Voting. As long as there is only one (1) Resort Operator within the District, the Resort Operator may name the person(s) to serve in the Board position(s) of the Resort Operator. In the event that there are two (2) Resort Operators, each Resort Operator shall

have a seat on the Board. In the event that there are three (3) or more qualified Resort Operators, each Resort Operator shall cast one vote per vacant Resort Operator seat.

Section 4.05 Residential Property Voting. Each Residential Property Owner shall be entitled to cast one vote per unit of Real Property owned within the District for each seat for which the Owner is eligible to vote.

Section 4.06 Residential Precincts. Three (3) Residential Voting Precincts have been created. The three precincts shall be called North, Central and South and each precinct has been assigned one each of the three (3) Residential Improved Property Board seats for election purposes. Owners in each Precinct shall be eligible to cast a vote for only one residential Board seat and only Owners who own property within the precinct shall vote for the residential Board seat assigned to that precinct. Owners of multiple properties located in more than one precinct may vote in more than one precinct.

In determining Precinct boundaries, no HOA or subdivision may be divided among precincts. Precinct size at the time of mailing of ballots shall not exceed a ten percent (10%) variance from the optimum number of one-third (1/3) of the total number of Residential Improved Property Owners in the District.

A subdivision or HOA may submit a written petition to the Election Committee for consideration to be moved to a different precinct. The written petition shall include;

- 1) The requesting entity name, address, date, and contact info, to include email and telephone number of the individual responsible for further clarifications if necessary
- 2) A rationale for the requested change
- 3) Supporting petition documentation* to include a greater than fifty percent (50%) approval of the HOA or subdivision owners to be moved.

*Supporting petition documentation from the requesting HOA or subdivision shall include: printed name, signature, unit#, phone# and date for each signature
ALL SUPPORTING DOCUMENTATION SHALL BE ORIGINALS, COPIES WILL NOT BE ACCEPTED.

Changes to Precinct boundaries shall not be made within ninety (90) days of a scheduled Residential Board seat election.

The Election Committee, after review and verification that all of the above requirements have been satisfactorily met, will make its recommendation for approval or rejection to the District Board at a regularly scheduled Board meeting. Affected HOAs and subdivision(s) shall be given the opportunity for public comment at the next meeting of the District.

The District Board may or may not take action on the Election Committee's recommendation in its sole discretion.

No requesting entity, HOA or subdivision shall be permitted to submit another petition to change Precincts sooner than three (3) years from the District Board date of vote on any prior request.

Section 4.07 Commercial Business Voting. Within the Commercial Business Property Voting Class each person who is the Owner of a Commercial Business Property with a physical presence within the SRCD boundaries shall be entitled to cast one vote per parcel.

Section 4.08 Unimproved Developable Property Voting. Each Owner of Unimproved Developable Property shall cast one vote per each separate lot or parcel owned.

Section 4.09 Nominations. The following rules shall apply in regard to all Board nominations:

- a) All persons qualified to serve as Board members, as defined in the Act and these Bylaws, must be nominated for election through the Elections Committee according to the following process in order to be eligible to serve on the Board. The Elections Committee shall receive nominations from the Owners. Owners may nominate themselves.
- b) All nominations may only be submitted by a member of the voting class and precinct (if applicable) for the applicable vacant seat to the Elections Committee at least forty-five (45) days before the meeting at which the election is to be held.
- c) All nominations shall be accompanied by a brief bio about the candidate and statement of qualifications to be a member of the Board. The bio and statement may not exceed 500 words or one (1) typewritten page.

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- d) The Elections Committee shall verify whom, among the nominees are qualified to serve on the Board under the terms of these Bylaws.

Section 4.10 Elections. A list of all qualified nominees (including the nominee's name, class, bio and statement of qualifications, telephone number, primary mailing address, and email address (if any) shall be submitted by the Elections Committee to the Secretary of the Board.

The notice of the election must be delivered in accordance with Section 14.01 of these By-laws to all members of the precinct(s) or voting class(es) at least thirty (30) days before the election date, along with voting instructions, a copy of the ballot. A proxy and a copy of all bios received of all nominees shall be made available on the SRCD's website.

Normal elections for Board members will be during the month of November with the specific date published by the election committee.

All completed ballots must be returned to the Election Committee no later than 2:00 P.M. Eastern, of the election date. Voting may be in person, mailed ballot, proxy, or electronic means as permitted for voting as specified by the Elections Committee.

The Elections committee will be responsible for receiving, tabulating, and certifying to the District Board the election results. The results will be publicly announced no later than seven (7) calendar days after the election date and become effective the first board meeting of the new calendar year.

In the event of a tie between two or more qualified candidates where there is only one open seat on the Board, the tied qualified candidates shall be the subject of a runoff vote, without any additional participants. A Runoff Ballot will be mailed within fifteen (15) days of the election date, to be returned to the Election Committee no later than noon twenty (20) calendar days from the runoff ballot mailing date. The Elections committee will then be responsible for receiving, tabulating, and certifying the runoff results. The results will be publicly announced no later than thirty (30) calendar days after the runoff mailing date and become effective immediately, unless a tie occurs again. In the event of a tie in the run-off vote, this run-off process shall be repeated until such time as one candidate receives at least one (1) more vote than the other. The outgoing Board member will continue to act until the election is certified.

Article V **Resort Service Fees**

Section 5.01 Authorization. The Snowshoe Resort Community District is authorized pursuant to WV Code §7-25-12 to adopt and impose a resort service fee within the District by following the procedures set forth within the Act.

Section 5.02 Resort Service Fee Rates. The SRCD Board shall determine the rate of the resort service fee(s), during a regularly scheduled Board meeting. The rate of the resort service fee assessed on any good(s) or service(s) sold shall not exceed two percent (2%) prior to August 1, 2021; thereafter the amount to be collected shall not exceed five percent (5%).

Different resort service fees and/or percentages, as determined by the Board, may be imposed upon different goods and/or services as defined in Section 5.04 of this Article.

Adoption, change to or repeal of the Resort Service Fee(s) requires approval by a statutorily mandated majority vote of six (6) of seven (7) Board members.

Section 5.03 Effective Date and Duration of Resort Service Fees. The Resort Service Fee shall become effective on a designated date at least ninety (90) days following adoption or amendment by the SRCD Board and shall continue until the SRCD Board adopts a new or different Resort Service Fee resolution. An abstract of the resolution authorizing the Resort Service Fee will be posted in compliance with Section 14.01 of these Bylaws and published as a Class II legal advertisement.

Section 5.04 Items subject to Resort Service Fees. The following items, goods and services sold or provided within the SRCD may be subject to a Resort Service Fee.

- a) All Goods and Services sold within the boundaries of the District, by any establishment or business.
- b) All clothing items sold or rented.
- c) Sporting goods and fishing tackle.
- d) Guns, ammunition, targets, and hunting supplies.
- e) Souvenirs.
- f) Rental and sales of snowmobiles, all-terrain vehicles, motorcycles, bicycles, skis, ski lessons, ski lift tickets, snowboards, ski poles, boots, boats, and all recreational equipment.
- g) All recreational activities and services on land, water, or in the air, including but not limited to fishing trips, hunting trips, and other outfitter trips, scenic rides, balloon and other air flights, horseback riding, sleigh and wagon rides, golfing, tennis, skiing, and guided tours if purchased, reserved, committed, or occurred within the boundaries of the District.
- h) All curios, jewelry, antiques, gift and art items.
- i) All retail sales of beverages including but not limited to beer, wine, liquor, or other alcoholic beverages sold by the glass, drink, pitcher, bucket, or bottle.
- j) All entrance fees or tickets that allow entrance to entertainment such as music, concerts, movies, theater, and plays.
- k) Spa treatments and massages unless prescribed by a physician.
- l) All rental agreements for lodging facilities, unless contracted for a period longer than thirty (30) consecutive days.

Section 5.05 Items Exempt from Resort Service Fees. The following items, goods, and services sold within the SRCD are exempt from the collection of Resort Service Fees.

- a) Utilities and utility services.
- b) Medical services, medical supplies, and medicine.
- c) Wholesale merchandise and foods for resale at retail or used in the purchaser's business as supplies.
- d) Gasoline, propane, diesel, and other motor vehicle fuels.
- e) All wholesale liquor sold at agency liquor stores meant for resale.

- f) Home heating fuels.
- g) Automobiles, trucks, and other vehicles licensed for on-highway use.
- h) Tractors, lawn mowers, snow blowers, snow-groomers, and farm equipment.
- i) Labor and parts for automobile and truck repair, including towing fees.
- j) Services prescribed by or performed by a physician, EMT, or nurse.
- k) All business payroll and labor costs, payroll taxes.
- l) Lumber, hardware supplies, tools, and other construction-related supplies.
- m) Household appliances.
- n) Real Estate sales.
- o) Gambling and Lottery.
- p) All rental agreements when contracted for a period longer than thirty (30) consecutive days.
- q) Vending Machines and coin-op arcade games.
- r) Non-profit fundraising activities.
- s) Garage sales.
- t) Non-retail sales or disposal of used merchandize, equipment and vehicles.
- u) Services provided by a non-profit religious organization.
- v) Industrial and commercial supplies, cleaning materials, and tools.
- w) Postage stamps and postal services.
- x) Any entity designated by Section 501 of the Internal Revenue Code.

Section 5.06 Collection of Resort Service Fees. Any establishment or business that sells goods and/or services within the District subject to the RSF shall collect a Resort Service Fee upon the sale of covered goods and services. Any entity that engages in the sale or provision, including online sales or provisioning, of any covered goods or services provided, rented, sold, performed, or delivered within the District shall be one hundred percent (100%) liable to the District for any and all Resort Service Fees incurred whether or not the entity collects same from the vendor or provider thereof.

The Board may contract with the Sheriff of Pocahontas County to collect certain specific Resort Service Fees in a manner consistent with Sections 6.08 and 6.09 of these Bylaws.

Section 5.07 Remittance of Resort Service Fees. Any and all Resort Service Fees collected must be remitted to the District or postmarked to the District on or before the 20th day of the next month for all sales or provisioning of goods and services in the prior month. The same shall be remitted electronically (when available) or mailed to the District at:

PO Box 377
Snowshoe, WV 26209-0377

Hand delivery of payments to the District's main business office during normal business hours will be accepted.

Any and all Resort Service Fee payments made or received after the 20th day of the month when due shall be deemed delinquent and subject to the penalties, fines, interest, and late fees set out in Section 5.09 of this Article.

Section 5.08 Enforcement and Collection of Resort Service Fees. The Board shall enforce the collection of the Resort Service Fees and oversee the methods and procedures to be employed in enforcing the collection of the Resort Service Fees within the District and shall have the power and authority to assess fines and accrue interest, bring suit, issue a cease and desist order, and any and all other legal means permitted to the District.

Section 5.09 Penalties, Interest, Late Fees and Liens. The following penalties, interest, late fees, and liens shall be imposed for failure to report Resort Service Fees when due, failure to remit Resort Service Fees when due, and any and all violations of this Article.

Delinquent Resort Service Fees shall bear interest at the rate of one percent (1%) per calendar month [twelve percent (12%) per annum], for any delinquent month. Any assessed interest (one percent (1%) per month), shall begin to accrue on the first day of the month after which month the payment was due and continue to accrue until full payment of all fees, penalties and interest is made; and A one-time late fee of thirty dollars (\$30.00) shall be assessed per each occurrence for failure to report or remit any Resort Service Fee when required hereunder. Failure, refusal, or neglect to obey a request for an audit or to cooperate with an audit is a violation of these Bylaws and a penalty not to exceed one hundred dollars (\$100.00) per day shall be imposed until in compliance with said audit.

Section 5.10 Reporting Forms for Resort Service Fees. The Board and/or the Treasurer shall promulgate and make available to any and all businesses and establishments responsible for collecting the Resort Service Fee forms for reporting and accounting for Resort Service Fee due.

Section 5.11 Confidentiality. Financial records and forms submitted to the SRCD by businesses and establishments shall be considered to be proprietary and privileged information and shall be kept confidential. Said records and forms are NOT open to public review under the Freedom of Information Act.

Section 5.12 Audits. At the direction of the Board, audits may be conducted of any businesses or establishments required to collect any and all Resort Service Fee. All businesses or establishments must cooperate in the conduct of said audits.

Section 5.13 Maintenance and Retention of Records. Any entity required to collect and remit any Resort Service Fee shall keep and maintain, for a period of not less than five (5) years, all records necessary to properly account for all Resort Service Fees collected and remitted and shall make such records available upon demand for audit and inspection at all reasonable times, at a location designated by the Board. Such records shall include, but are not limited to: books, ledgers and registers; original records necessary to document gross receipts of the business or establishment; specific documentation of exempt sales; conformed copies of all state and federal income tax returns, schedules and forms.

Section 5.14 Appropriations, Expenditures, and Purposes of the Resort Service Fees. The revenue derived from the assessment of any Resort Service Fee shall be appropriated by the Board and expended for projects and services in the District as permitted by the Act.

Article VI

Assessments

Section 6.01 Authorization. The Snowshoe Resort Community District is authorized pursuant to WV Code §7-25-15 to impose assessment(s) for project(s) and within the District. A resolution by the Board authorizing an assessment shall be adopted only after compliance with the procedures set forth in the Act and these Bylaws.

Section 6.02 Maximum Amount of Assessments. Modified by Resolution 02-19. The aggregate maximum amount of assessments that may be assessed or levied against real property within the District is two and one half percent (2.5%) per annum of the assessed value of the real property, including improvements, as shown in the property tax records and the original Land Books in The Pocahontas County Tax Assessor's Office.

Section 6.03 Types of Assessments. Assessments assessed or levied within the District shall be used to pay for the specific purpose(s) as stated in the approving Resolution of the Board. There shall be two types of Assessments:

- a) Mountain Wide Assessment (MWA) which may be assessed or levied on all real property within the District.
- b) Limited Project Assessment (LPA) is assessed or levied on a specific portion of real property within the District to pay for a proposed project and/that is designed to benefit only that specific portion of real property within the District.

Section 6.04 Assessment Proposal and Review Process. Fifty-one percent (51%) or more of the owners of real property to be benefited by a project or service may petition the Board to implement an assessment to pay the costs of any specific project or service. A Board member may on his/her own initiative propose an assessment to pay the costs of a project or service. All proposed projects or services to be assessed shall first be reviewed and recommended by the Resort Services Fee and Assessments Committee in compliance with of the provisions of the Act and these Bylaws.

Section 6.05 Notice and Public Meeting

- a) At least thirty (30) days before the adoption of any resolution authorizing any assessment to pay the costs of a project or service, the Board shall cause notice to be given to the owners of real property within the District intended to be subject to such assessment, that the resolution will be considered for adoption at a Public Meeting of the Board. The notice shall, comply in all respects with the Act and these Bylaws The publication area for such publication shall be the Resort Area District and shall contain:
 - (1) The date, time, and location of the Public Meeting that shall address such assessment;
 - (2) A copy of the proposed Resolution setting forth the amount of the proposed assessment and shall contain a description of the proposed project or service to be financed by such assessment.
 - (3) Notice that all persons shall be given, at said meeting, or any adjournment thereof, an opportunity to protest or be heard concerning the adoption or rejection of the resolution.
 - (4) Notice that a vote on the proposed project or service assessment by those Owners to be assessed will be held at the Public Meeting. Voting at the meeting shall be in

person or by proxy at the meeting or by mailed ballot or electronic means received prior to the meeting in compliance with the voting rules set forth in with Article IV of these Bylaws.

- b) An affidavit of publication and a copy of the notice shall be made part of the minutes of the Public Meeting.
- c) An assessment shall not be authorized by the Board if, at the public meeting required by this section, written protest is filed by at least twenty-five percent (25%) of the owners of the real property within the District to be assessed for the proposed project **or service** and subject to an assessment. A proposed project **or service** assessment rejected by this section may not be reconsidered in the same form by the Board for a period of at least one (1) year after the date of the public meeting.
- d) Upon written request to the Board, the Board shall make available to the owners of real property within the District a list of all owners of real property within the District for the purposes of enabling the owners of real property to solicit support for a petition proposing or a protest an assessment.
- e) If the proposal receives a majority of favorable votes cast at the public meeting by the owners of real property in the District that will be subject to the assessment and before the Board may adopt a resolution authorizing implementation of assessments, the Board shall, using reasonable efforts and in compliance with Section 14.01 of these Bylaws, mail a true copy of the proposed resolution authorizing implementation of an assessment to the owners of real property to be assessed and to each president of a homeowners association, in the District. Immaterial defects in the mailing of such notices shall not affect the validity of such notices.
- f) Upon completion of the mailing as provided in Section 6.05.(a) above, the Board may vote to adopt the proposed resolution to assess at its next meeting with a six (6) of seven (7) statutorily mandated majority vote.

Section 6.06 Notice of Assessment. Prior to the assessment or levy of any assessment, the Board shall cause a report to be prepared describing each lot or parcel of land located within the resort area District to be assessed for the project **and** setting forth the total cost of the project **and** based on the contract with the governmental agency, the accepted bid or bids, or a cost estimate certified by a professional engineer, and all other costs incurred prior to the commencement of construction and the future administrative costs, and the respective amounts chargeable upon each lot or parcel of land and the proper amount to be assessed against the respective lots or parcels of land with a description of the lots and parcels of land as to ownership and location. If two or more different kinds of projects **and** are involved, the report shall set forth the portion of the assessment attributable to each respective project **and**. The Board shall thereupon give notice as specified below to the owners of real property to be assessed that on or after a date specified in the notice an assessment will be deemed granted against the property. The notice shall state that the owner of assessed property, or other interested party, may on said date appear before the Board to move the revision or correction of the proposed assessment and shall show the total cost of the project **and**, whether the assessments will pay for all, or a part of, the total cost of the project **and** and the lots or parcels of property to be assessed and the respective amounts to be assessed against such lots or parcels, with a description of the respective lots and parcels of land as to ownership and location. The notice shall be mailed, using reasonable efforts, to the owners of real property to be assessed for a proposed project **and** as provided in Section 14.01 of these Bylaws and published as a Class II

legal advertisement in compliance with the provisions of Article

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three, Chapter fifty-nine of WV Code. Immaterial defects in the mailing of such notices shall not affect the validity of such notices.

On or after the date so advertised, the Board may revise, amend, correct, and verify the report and proceed by resolution to establish the assessments as corrected and verified and shall certify the same to the Pocahontas County Commission.

Upon completion of a project, the Board shall prepare a final report certifying the completion of the project and showing the total cost of the project and whether the cost is greater or less than the cost originally estimated. If the total cost of the project is greater or less than the cost shown in the report prepared prior to construction, the Board may revise the assessment charged on each lot or parcel of property to reflect the total cost of the project as completed, and in doing so shall, in the case of an assessment increase only, follow the same procedure with regard to notice and providing each owner of assessed property the right to appear before the Board to move for the revision or correction of such proposed reassessment as required for the original assessment. If the assessment is decreased, the Board shall, by resolution and written notice to the Sheriff of Pocahontas County, cause the next installment or installments of assessments then due and payable by each affected property owner to be reduced pro rata, and shall provide written notice to such property owners of the amount of such decrease by the deposit of such notice in the United States mail, postage prepaid.

Section 6.07 Exemption of Public Property from Assessments. No lots or parcels of land owned or controlled by the United States, this state, any municipality, county, county Board of Education, Resort Area District or other public body shall be subject to any assessments.

Section 6.08 Payment of Assessments to Sheriff. The assessments authorized pursuant to this Article shall not be considered to be ad valorem taxes or the equivalent of ad valorem taxes: Provided, That for the exclusive purposes of collection of any assessment authorized to be assessed or levied under this Article and the enforcement of any liens created by Section 6.09 of this Article, the provisions of WV Code shall apply as if the assessment were taxes as that term is defined in §11A-1-1: Provided, That any property subject to assessments may not be sold to satisfy such lien.

- a) The sheriff shall promptly deposit all assessments upon receipt thereof in a segregated account established by the sheriff for such purpose and the sheriff shall maintain a record of the assessments so received. Each month, the sheriff shall pay all moneys collected for the District, less his commission, into the SRCD treasury or, if the sheriff consents, to a trustee for the benefit of bondholders if assessment bonds are issued by the District.
- b) Payments to the District shall be made in the time set forth in section §11A-1-15 of the WV Code and the sheriff shall be entitled to take a commission for collection of the assessments on behalf of the District, as provided in §11A-1-17 of the WV Code.
- c) For each tax year, the sheriff will prepare and deliver to the SRCD Board, a statement setting forth the aggregate amount of assessments received for such and the name of any property owner who failed to pay the assessments due and payable for any period in question. The report shall be due on or before August 1 of the following year.
- d) The sheriff is authorized to collect any delinquent assessments and enforce any liens created in this Article as if those assessments were delinquent real property taxes and the taxes are tax liens using the enforcement tools provided in §11A-2 and §11A-3 of the

WV Code except that any property subject to assessments may not be sold to satisfy such lien.

Section 6.09 Liens. With the exception of property exempt from assessment pursuant to Section 6.07 of this Article, there shall be a lien on all real property located within the District for the assessments imposed by Section 6.06 of this Article, which lien shall attach to those parcels made subject to the assessment on the date specified in the notice to property owners. A notice of the liens of said assessments referring to the assessing resolution and setting forth a list of the property assessed, described respectively as to amounts of assessment, ownership and location of the property, shall be certified, by the Chairperson and Secretary of the Board, to the clerk of Pocahontas County. The County Clerk shall record the notice of such lien in the appropriate trust deed book or other appropriate county lien book and index the same in the name of each owner of real property assessed. From the date of an assessment, the trustee, for the benefit of bondholders if assessment bonds are issued by the District, and/or the District shall have such lien and shall be entitled to enforce the same in its, his, her or their name to the extent of the amount, including principal and interest and any penalty due for any failure to pay an installment when due, of such assessments and against the property to which the assessment applies, as to any assessment not paid as and when due. The trustee or the District, as an alternative to the enforcement provision set forth in Section 6.08 of this Article, are granted all legal remedies as are necessary to collect the assessment. Such assessments shall be and constitute liens for the benefit of the District or the trustee, for the benefit of bondholders if assessment bonds are issued by the District, upon the respective lots and parcels of land assessed and shall have priority over all other liens except to those for land taxes due the state, county and municipality and except any liens for preexisting special assessments provided under this Code. If any assessment is revised in accordance with this Article, the lien created by this section shall extend to the assessment so revised and shall have the same priority as the priority of the lien created upon the laying of the original assessment. Such assessments and interest thereon shall be paid by the owners of the property assessed as and when the installments are due.

Following the payment in full of any assessment bonds, including any interest thereon, the Chairperson and Secretary of the Board shall execute a release of all liens and shall certify the same to county clerk for recondition.

Following the grant of any assessment on property as provided in this Article, the seller of such property shall provide reasonable disclosure to the buyer in the real estate contract that an assessment has been granted on the property, the amount of the assessment, and the duration of the assessment.

Article VII Borrowing

Section 7.01 Assessment Bonds and Resort Service Fee Bonds. For constructing and acquiring any project authorized by Article VIII of these Bylaws the Board is hereby authorized to borrow money, beginning with the fiscal year July 1, 2021 and then from time to time, and in evidence thereof issue the bonds of such District, payable from the proceeds of the assessments or resort service fees granted under these Bylaws. Such bonds shall be issued in one or more

series, may bear such date or dates, may mature at such time or times not exceeding thirty (30) years from their respective dates, shall be fully registered as to principal and interest in the name of the bondholder with a certificate of authentication, may bear interest at such rate or rates not exceeding eighteen percent (18%) per annum, may be payable at such times, may be executed in such manner, may be payable at such place or places, may be subject to such terms of redemption with or without premium, may be declared or become due before maturity date thereof, may be authenticated in any manner, and upon compliance of such conditions, may contain such terms and covenants as provided in the resolution or resolutions of the Board. All such bonds shall be, and shall be treated as, negotiable instruments for all purposes. Bonds bearing the signatures of officers and offices on the dates of the signing thereof shall be valid and binding for all purposes notwithstanding that before the delivery thereof any or all such persons whose signatures appear thereon shall have ceased to be such officers. Notwithstanding the requirements or provisions of any other law, any such bonds may be negotiated or sold in such manner at such time or times and at such price or prices as is found by the Board to be most advantageous. Any resolution or resolutions providing for the issuance of such bonds may contain covenants and restrictions upon the issuance of additional bonds thereafter as may be deemed necessary or advisable for the assurance of the payment of the bonds thereby authorized.

- a) At or before the time of issuance of any bonds under this Article, the Board shall by resolution provide for the creation of a sinking fund and for payments into such fund from the assessments or resort service fees in such amount as may be sufficient to pay the accruing interest and retire the bonds at or before the time each will respectively become due and to establish or maintain reserves therefore. All sums which are or should be, in accordance with such provisions, paid into such sinking fund shall be used solely for the payment of interest and for the retirement of such bonds at or prior to maturity as may be provided or required by such resolution.
- b) The property, including leased property, of the District and bonds and any income or interest thereon issued by the District are exempt from taxation by the state of West Virginia and other taxing bodies of the state.

Section 7.02 Indebtedness of the District. No constitutional or statutory limitation with respect to the nature or amount of or rate of interest on indebtedness which may be incurred by municipalities, counties or other public or governmental bodies shall apply to the indebtedness of SRCD. No indebtedness of any nature of a SRCD shall constitute an indebtedness of Pocahontas County or a charge against any property of Pocahontas County but shall be paid solely from the resort service fee or assessments which the District is authorized to impose on the owners of the property within SRCD by these Bylaws. No indebtedness or obligation incurred by SRCD shall give any right against any member of the governing body or any member of the Board of the District.

Section 7.03 Limitation on Borrowing. No borrowing of any type may occur before the fiscal year beginning July 1st, 2021.

Article VIII Services and Projects

Section 8.01 Purpose. All services and projects undertaken by the District shall provide for the public health, safety and welfare, and economic development within the District. The revenue derived from Resort Service Fees and Assessments shall be expended to provide for those general public services and projects listed in Section 8.02 of this Article; the salaries and benefits of District employees, administrative services and other necessary expenses associated with the day to day operation of the District.

Section 8.02 Services and Projects

Services permitted include but are not limited to:

- a) The maintenance, upgrade, and beautification of District-owned or managed public common areas, to generally include, but not limited to, streets, roads, rubbish removal, cleaning, landscaping, snow removal and repair
- b) Public transportation within the District
- c) Collection, recycling, and/or disposal of garbage from District-owned or managed facilities and property
- d) Fire Protection, Emergency Medical Services and Public Safety
- e) Operation, upgrade, and maintenance of any project or improvement authorized by this Article
- f) Abatement of nuisances and removal or elimination of public health or safety hazards from private property

Projects permitted include but are not limited to:

- a) District-owned streets, sidewalks, pavement, curbs, gutters, and lighting
- b) District-owned public Buildings such as District Operations or Administration, bus stops, vehicle maintenance facility
- c) District-owned parks and playgrounds including the purchase of applicable equipment
- d) District-owned public plazas, courtyards, and pedestrian concourses
- e) District-owned public parking facilities

Other services and projects as a whole deemed to be necessary, useful, convenient, appropriate, or incidental to the common good of the District may be considered by the Board for funding, *provided* that a Service or Project shall not include a facility or service that benefits only the Resort Operator, or which the Resort Operator charges a fee for or obtains revenue from, or that constitutes part of any facility or service provided by the Resort Operator.

Section 8.03 Application Process. A service or project to be funded by the District may be requested by any organization located within the boundaries of the District. An applicant must be an authorized representative of a legal entity recognized under the laws of the State of West Virginia. In those cases where the applying individual is not a representative of a legal entity, a signed petition of not less than twenty-five percent (25%) of the affected property owners should accompany the application.

A written application must be submitted to the Resort Services Fee and Assessments Committee at least ninety (90) days prior to start of a new fiscal year in order to be considered in the next year's budget. All applications must provide the following information, at a minimum:

- a) Requesting organization name and contact information
- b) Community need met and area to be benefited
- c) Complete service or project description including purpose, goals, and objectives
- d) Preliminary budget costs for direct expenses, design, administration, and contingency funds
- e) Implementation timeframe and major milestones
- f) Preliminary ongoing annual operations and/or maintenance expenses (minimum three (3) year projection)
- g) Any additional information as requested by the Resort Services Fee and Assessments Committee and/or the Board

Incomplete applications shall not be considered for funding. It is the applicant's responsibility to provide all information requested in a proper and timely fashion. It is understood that the applicant may not have the resources necessary to provide all requested information. At the Board's discretion, the Resort Services Fee and Assessment Committee may work with the applicant to provide assistance in completing the application.

Section 8.04 Budgeting. Twenty-five percent (25%) of all new service or project costs must be available through existing operating or reserve funds. A Capital Reserve Study shall be created and periodically updated to ensure that appropriate funds are budgeted annually to properly maintain all services and projects for which the District is responsible.

- a) If there exists a governmental agency with the experience, knowledge and authority to construct the project, the Board may elect to enter into a contract with such agency for the construction of all, or a part of, the project or for any other service necessary or incident to the construction of the project, in which case such governmental agency shall be responsible for entering into contracts, subject to the Board's approval, with such other persons as may be necessary or incident to the construction of the project; or
- b) The Board may elect to enter into one or more contracts with such contractors and other persons as may be necessary or incident to the construction of the project, in which case it shall solicit competitive bids. All contracts for work on any service or project, the expense of which will exceed \$50,000, shall be awarded to the lowest qualified responsible bidder meeting all of the criteria contained in the RFP. The winning bidder shall furnish a sufficient performance and payment bond. The Board may reject any and all bids and if it rejects all bids, notices shall be published as originally required before any other bids may be received. The Board may let portions of the work necessary to complete a project under different contracts.

Section 8.05 Approval. The Resort Services Fee and Assessments Committee shall review each application for completeness and accuracy and for compliance with all statutes and these Bylaws. At least sixty (60) days prior to the start of the fiscal year, the Resort Services Fee and Assessments committee, in cooperation with the Finance Committee, shall prepare a summary report of all approved applications, ranking them for health, safety and welfare, economic development, community desirability, benefits, and cost effectiveness, and present their recommendations to the Board at a regularly scheduled meeting. Recommendation of a service

or project by committee

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does not constitute approval for funding or implementation by the District. The Board shall then consider each service and project for approval. A vote for approval by six (6) of seven (7) of the Board members to adopt a Resolution for those services and/or projects to be undertaken during the next fiscal year shall be required for inclusion in the budget.

Article IX Committee

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Section 9.01 General

- a) The Chairperson of the Board shall appoint standing committees, committee chairpersons, and committee members as authorized in these Bylaws and, from time to time, *ad hoc* committees as necessary to serve a specific function. Non-Board members of committees shall be recommended to the Board by the committee chairperson for Board approval. A simple majority of the committee members shall constitute a quorum for meeting purposes.
- b) The Board shall appoint or reconfirm the following standing committees at the annual organizational meeting in January of each year:
 - (1) Governing Documents
 - (2) Finance
 - (3) Communications
 - (4) Service and Projects Review
 - (5) Election
 - (6) Architectural Review & Standards Enforcement
- c) Such committees shall investigate, support, and make recommendations to the Board but shall have no authority to act on behalf of the Board.
- d) All Standing Committees shall submit a report to the Board at each regularly scheduled meeting of the Board if necessary.

Section 9.02 Committee Composition

- a) A committee shall consist of a chairperson, and two (2) to seven (7) additional members. Each committee shall have at least one (1) but no more than two (2) Board members serving thereon.
- b) The District Manager, if employed, shall be an ad-hoc member of all committees. The District Manager's headcount shall be in addition to the requirement of between three (3) and eight (8) members. The District Manager shall not vote in any committee proceedings and shall not be counted in determining the existence of a quorum for committee meetings.
- c) Committee members must be a member of one of the voting classes outlined in Section 4.01 of these Bylaws. Where special expertise may be needed, the Board may appoint a special member who is not an owner, at its discretion.
- d) A standing committee member's term shall be three (3) years; however, the Board shall reconfirm all committee memberships at the annual organizational meeting in January of

each year. Members may be re-appointed to subsequent three (3) year terms at the discretion of the Board.

- e) Committee members serve at the pleasure of the Board and may be removed by a majority vote of the Board with or without cause.

Section 9.03 Standing Committees

- a) Governing Documents

- (1) Create, amend, maintain, and interpret the Bylaws of the District to comply with the requirements of the Act.
- (2) Provide oversight for proposed **Resolutions, Policies, Guidelines**, amendments to the District's Bylaws and provide counsel to the Board on issues related to the governing documents; and as directed, formulate, review, and propose amendments to the governing documents.
- (3) The District's attorney shall serve as an *ex officio* member of this committee.

- b) Finance Committee

- (1) Provide financial oversight for the District.
- (2) Prepare a budget annually according to Article II of these Bylaws. Only the Board as a whole shall approve the budget.
- (3) Provide budget tracking and reporting standards as are appropriate for the District.
- (4) Monitor expenditures and income and report significant variances to the Board.
- (5) Review and provide guidance to the full Board about:
 - (a) Policies or recommendations having potential financial implications
 - (b) Financial strategies for major projects
 - (c) Working capital and cash flow management
 - (d) Recommend transfers from the Capital Reserve and other accounts
- (6) In collaboration with the Services & Projects Review Committee determine, analyze and recommend to the Board proposed Resort Service Fees, Assessments and adjustments to these fees as necessary.
- (7) Evaluate other transactions or financial issues that the Board wishes to have reviewed by the Committee
- (8) The Treasurer shall serve as the chairperson of this committee and the District's accountant shall be an *ex officio* member.
- (9) In collaboration with the Service & Projects Review Committee, develop a ten (10) year plan, to be presented for Board approval, for potential services and projects to be considered by the District. Said plan shall be updated every three (3) years. The existence of a ten (10) year plan does not preclude the consideration of services and projects not included in the plan and requested in accordance with Section 8.03.

- c) Communications Committee

- (1) Establish and maintain an effective information sharing process between the District and its stakeholders.
- (2) Develop and maintain databases for communication purposes in relevant areas.
- (3) Establish, upgrade, and maintain a District website.

- (4) Work in close cooperation with other committees and the Board to provide relevant and timely information to District stakeholders.
- d) Services & Projects Review Committee
 - (1) In collaboration with the Finance Committee, determine and recommend to the Board Resort Services Fees as detailed in Article V of these Bylaws.
 - (2) In collaboration with the Finance Committee, review Resort Service Fees and make recommendations to the full Board for changes in said fees.
 - (3) Receive and evaluate requests for projects and services as detailed in Article VIII of these Bylaws; consult with the Finance Committee regarding financial impact and feasibility; and make recommendations for services and projects to the full Board.
 - (4) In collaboration with the Finance Committee, develop a ten (10) year plan, to be presented for Board approval, for potential services and projects to be considered by the District. Said plan shall be updated every three (3) years. The existence of a ten (10) year plan does not preclude the consideration of services and projects not included in the plan and requested in accordance with Section 8.03.
- e) Election Committee
 - (1) Administer the election process consistent with the Act and these Bylaws.
 - (2) Administer the tracking of new owner/voters
 - (3) Periodically review and recommend precinct border adjustments, when needed, to the Board for approval
 - (4) Organize and conduct District Board elections, in consultation with legal counsel, as specified in Article IV of these Bylaws.
- f) Architectural Review & Standards Enforcement Committee
 - (1) Develop and recommend to the Board for approval **Ordinances**, Policies, Design Guidelines, and best practices to facilitate consistent land use, construction, and disciplined growth within the District.
 - (2) In compliance with local, state, and federal regulations, mandate compliance with Design Guidelines, procedures, and restrictions for all owners within the District.
 - (3) Protect property values and property rights of all owners within the District.

Section 9.04 *Ad Hoc Committees*

- a) *Ad hoc* committees are committees appointed as necessary to serve a stated function or perform a specified task and shall be disbanded when that function or task is completed.
- b) An *ad hoc* committee shall be created by a simple majority vote of the Board and in compliance with Section 9.02(a) and Section 9.02(b) above.

Ad hoc committees shall submit reports to the Board at each regularly scheduled meeting or more frequently if desired by the Board.

Section 9.05 Committee Member Compensation. Stipend paid to non-Board member committee members shall be \$125 per scheduled committee meeting where a quorum is present if attendance is in person. Total stipend shall not exceed \$1,000 per annum. Committee members shall not receive compensation for travel reimbursement to attend meetings.

Article X
Employee
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Section 10.01 Hiring of Staff. The Board may hire a District Manager and/or Administrative Assistant; retain the services of Legal Counsel and Financial/CPA services, and other staff as needed to assist in the administration of the duties and obligations of the District, these Bylaws, Projects and Services. All staff and employees of the District shall serve at the pleasure of the Board.

Section 10.02 Relationship to the Board. No employee or professional service representative shall be related by blood or marriage/domestic partnership within the second degree of consanguinity or affinity to any member of the Board of Directors.

Section 10.03 Employee Handbook and Ethical Standards. All employees of the District shall comply with the SRCD Employee Handbook and the WV Code § 6B-2-5 referencing ethical standards for elected and appointed officials and public employees. All employees shall sign an acceptance of knowledge of receipt of the Employee Handbook and the WV Code § 6B- 2-5 as a condition of being hired.

Section 10.04 Employees

a) District Manager

- (1) The District Manager shall have immediate and overall supervision of the operations of the District, and shall direct the day-to-day business of the District, maintain the assets of the District and perform such additional duties as may be directed by the Board. Hiring, discharge, and compensation of all staff members shall be at the discretion and approval of the Board upon recommendation of the District Manager. The District Manager shall serve at the pleasure of the Board and under the Boards' supervision. The District Manager shall make such reports at the Board and Committee meetings as may be required by the Chairperson of the District. The District Manager shall be an *ad hoc* member of all committees.
- (2) The District Manager shall be hired at a meeting of the Board by a simple majority vote and shall serve until removed by the Board upon a simple majority vote at any meeting of the Board. Such removal may be with or without cause. Nothing herein shall confer any compensation or other rights on any District Manager, who shall remain an employee terminable at will, as provided in this Section.
- (3) The District Manager shall be responsible for the following duties:
 - (a) Record keeping of the District.
 - (b) Overseeing the day-to-day operations of the District.
 - (c) Assist the Treasurer with the financial oversight of the District.
 - (d) The District Manager shall be subject to the Conflicts of Interest Policy of the District set forth in these Bylaws, Resolutions and the **Ordinances and Policies** of the District.

(4) The District Manager shall assist the Treasurer with a quarterly financial report prepared for the Board and shall include all items requested from the Board from time to time. Such items shall include at least the following:

- (a) Accounts Receivable report showing any delinquent owners for assessments and delinquent entities regarding the resort service fees.
- (b) An account activity statement reflecting all cash receipts and disbursements for the preceding quarter on a cash basis.
- (c) An income statement reflecting income and expense activity for the preceding quarter on an accrual basis.
- (d) A capital accounts statement in an actual vs projected year-to-date format.
- (e) A balance sheet reflecting the financial condition of the District on an accrual and unaudited basis.

b) **Staff.** The Board may hire other staff as required.

c) **Services.** The Board, from time to time, may hire services such as legal, financial, and other. All staff will serve at the will of the Board. Any staff shall be hired at a duly called meeting of the Board with approval by a simple majority vote and shall serve until the end of the agreed upon contractual period of time or until removed by a simple majority vote of the Board. Such removal may be with or without cause.

Section 10.05 Mandatory Arbitration. All employment, staff, and professional services contracts entered into by the District shall contain the following mandatory arbitration clause. The Parties agree that any and all disputes that shall arise under this agreement shall be submitted to binding arbitration whereby each party shall select one (1) arbitrator and the two (2) arbitrators so selected shall select a third arbitrator. The Parties agree to be subject to all rules and procedures adopted by the arbitrators and agree to be bound by the decision of a majority of the arbitrators.

Article XI

Budget

Section 11.01 Fiscal Year. The fiscal year of the SRCD shall be July 1 through June 30.

Section 11.02 Preparation of Budget. At least sixty (60) days prior to the end of each fiscal year, the Finance Committee shall prepare and present to the Board for review and approval a budget for the District for the next fiscal year.

- a) The budget shall contain an estimate of the total amount considered necessary to pay the cost of wages, materials, insurance premiums, services, supplies and other expenses that the District may incur and which will be required during the ensuing fiscal year for:
- b) General administration of the District
- c) Operation, maintenance, repair, and replacement of the assets owned by the District
- d) Operation of those existing services and completed projects for which the District has the responsibility to maintain, repair and replace

- e) The administration, construction, implementation, operation, maintenance and repair to finance all new services and projects.
- f) Such reasonable amounts, as the Board considers necessary, to provide working capital, a minimum of a twenty-five percent (25%) operating and replacements reserve as mandated by State Statute.
- g) The budget shall separately identify all revenue sources by the following categories:
- h) Resort Service Fee(s), if any
- i) Mountain Wide Assessment, if any, and
- j) Limited Assessment(s), if any.
- k) Other sources of income such as grant monies etc.

Section 11.03 Approval of Budget. The Board shall vote, in accordance with Article III, Sections 7, 8 & 9 of these Bylaws, to approve, amend or reject the proposed budget at a scheduled Board meeting not less than fourteen (14) days prior to the start of the fiscal year.

Section 11.04 Failure to Approve a Budget. In the event the proposed budget is rejected, the periodic budget last ratified shall be continued until such time as the Board approves a new budget. No new services or projects may be started until the Board approves the budget providing the necessary funds. The failure or delay of the Board to prepare or approve a budget for any fiscal year shall not constitute a waiver or release in any manner of an Owner or Resort Service Fee establishment's obligation to pay all monies owed to the District under the previous fiscal year and all SRCD Resolutions.

Section 11.05 Notice of Approved Budget. Within thirty (30) days after the adoption of the proposed budget, the Secretary shall post a summary of the budget in accordance with Section 14.1 and published as a Class II legal advertisement in compliance with WV Code and the publication area for the publication shall be Pocahontas County. The budget summary shall be in a form as determined by the Board and shall also include a breakdown of the amount of the Resort Service Fee and any special assessment(s). The summary shall also list those services and projects to be funded.

Section 11.06 Prior Year Budget Review. Within ninety (90) days after the end of each fiscal year, the Finance Committee shall present to the Board, at a scheduled Board meeting, an itemized accounting of the revenues collected and actual expenses for such fiscal year pursuant to the budget adopted by the Board and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall, at the discretion of the Board, be placed in reserve accounts, be placed in a special account to be expended solely for the general welfare of the Owners, or be credited according to each Owner's assessment, if any, to the next installment(s) due from Owners under the current fiscal year's budget, until exhausted.

Section 11.07 Reserves. The Finance Committee shall provide in its annual budget for maintaining reasonable reserves for working capital, operations, contingencies, capital improvements and replacements. Extraordinary expenditures not originally included in the

annual budget that might become necessary during the year may be charged first against appropriate reserves held for that purpose. If the appropriate reserves held for emergency needs are inadequate for any reason, the Board may at any time, amend the budget in accordance with Section 11.03 and notice of the amended budget shall be in accordance with Section 11.05 of this Article.

Section 11.08 Ten-Year Plan. To assist in accurate budget forecasting, the District shall commission a Ten-Year Capital and Repair Plan and Reserve Study so as to identify and project the usable life span and costs of additions, alterations, improvements, or replacements of all District-owned facilities, services, and projects.

Section 11.09 Unplanned Additions, Alterations, Improvements or Replacements

- a) Discretionary Improvements: Whenever, in the judgment of the Board, Owners would be benefited by any additions, alterations, improvements, repairs, or replacements that will cost Twenty-Five Thousand Dollars (\$25,000) or less during any period of twelve (12) consecutive months, even in the event that the same were not planned for in the annual budget, listed in the Ten-Year Plan or identified in a project the Board may make such additions, alterations, improvements, repairs, or replacements when approved by the Board in accordance with Article III, Sections 3, 7 & 9 of these Bylaws after first approving a revised budget.
- b) Non-Discretionary Improvements: Whenever, in the judgment of the Board, additions, alterations, improvements, repairs, or replacements costing Twenty-Five Thousand Dollars (\$25,000) or less, are required as a result of an unforeseen or emergency event, to safeguard the health, welfare, and safety of the Owners, visitors, employees, and/or District property or otherwise under circumstances that would not permit delay for the correction of the problem, the Board may make such additions, alterations, improvements, repairs, or replacements when approved by the Board without first approving a revised budget.
- c) Non-Discretionary Improvements: Whenever, in the judgment of the Board, additions, alterations, improvements, repairs, or replacements costing in excess of Twenty-Five Thousand Dollars (\$25,000), are required as a result of an unforeseen or emergency event, to safeguard the health, welfare, and safety of the Owners, visitors, employees, and/or District property or otherwise under circumstances that would not permit delay for the correction of the problem, the Board may make such additions, alterations, improvements, repairs, or replacements when approved by the Board after first approving a revised budget in the next scheduled meeting or another called Emergency Meeting.
- d) The costs of all such discretionary and non-discretionary improvements shall be added to the budget in accordance with Section 11.07 of this Article.

Article XII
Insurance & Indemnification

Section 12.01 Authority to Purchase. The SRCD shall purchase insurance policies with sufficient coverages so as to protect the District, the Board, its Employees, and property from all foreseeable damages, claims, or loss. All policies of insurance shall be written by reputable companies licensed to do business in the State of West Virginia. The Board shall not be liable for

failure to obtain any coverages if such failure is the result of such coverages not being commercially available from a reputable insurance company at a reasonable cost. The members of the Board shall not be personally liable or responsible for any obligations of the District or the Board but are answerable only for willful misconduct in the performance of their duties.

Section 12.02 Insurance Policy Types. The Board shall obtain and maintain:

- a) General, 'All Risk' Physical Damage Insurance - A blanket "all risk" policy of fire insurance, vandalism, malicious mischief, windstorm, water damage, demolition and debris removal endorsements insuring all property and vehicles owned by the District covering the Board and all employees in an amount equal to at least 100% of its then current replacement cost (exclusive of the land value and other similar items normally excluded from such coverage) without deduction for depreciation.
- b) Liability Insurance - A comprehensive general liability policy (including libel, slander, false arrest, and invasion of privacy coverage and errors and omissions coverage for Board members) and property damage insurance in such limits as the Board may from time to time determine.
- c) Workmen's Compensation Coverage to the extent necessary to meet the requirements of law for both the Board and all employees.
- d) Fidelity and Bond Coverage to protect against dishonest acts on the part of Board members, managers, trustees, and employees of the District and all others who handle or are responsible for handling funds of the District. Coverage shall be in an amount equal to not less than one half of the District's total annual budget.
- e) Other Insurance as the Board may determine is needed or as may be required from time to time by any governmental agency.

Section 12.03 Insurance Policy Provisions. Each policy shall provide that:

- a) No policy may be cancelled, invalidated, or suspended due to the conduct of any District Board member, employee, or agent without a prior demand in writing that the District cure the defect with at least thirty (30) days notice to cure.
- b) No policy may be cancelled or substantially modified without at least thirty (30) days prior written notice to the Board.
- c) All policies shall contain provisions for:
 - 1) Policy is First Dollar Defense
 - 2) Coverage of the broadest named group possible
 - 3) Right to select Counsel
 - 4) Right to agree to settlement

**Article XIII
Amendments**

Section 13.01 Amendments

- a) Amendments to these Bylaws may originate from the Board, from the Governing Documents Committee, or from a stakeholder of the District. Amendments originating with the Board or a stakeholder shall be submitted to the Governing Documents Committee and general counsel to be reviewed for consistency with the Act.

- b) After review and approval by the Governing Documents Committee and general counsel, a proposed “red-lined” amendment shall be submitted to the Board at least thirty (30) days prior to a scheduled Board meeting or a special meeting at which the amendment is to be considered. The proposed “red-lined” amendment also shall be posted at least thirty (30) days prior to the date of the meeting at which the amendment is to be considered in compliance with Section 14.01 of these Bylaws.
- c) Time for public input shall be provided on the agenda of the meeting at which the amendment is to be considered.
- d) The Board shall vote to approve or not approve or refer the amendment back to committee with instructions for further revision.
- e) A vote of six-sevenths (6/7) of the Board is required to accept the amendment.

Article XIX **Miscellaneous**

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Section 14.01 Notices

- a) Physical posting of Meeting Agendas and all other required Notices in the following areas shall meet the requirement for public and conspicuous locations within the District:
 - (1) Linwood Library at Snowshoe
 - (2) Snowshoe Post Office
 - (3) Village Depot
 - (4) District Website
 - (5) Pocahontas County Courthouse
- b) All notices shall also be sent to the president of record on file with the District for each homeowner’s association.
- c) All notices, demands, bills, statements or other communications under these Bylaws, except as provided in subsection (d), shall be in writing and be deemed to have been duly given if delivered (i) personally, (ii) via facsimile transmission, (iii) via courier, (iv) via formal means of electronic delivery (e.g. electronic mail), or (v) sent by United States mail, postage prepaid. Immaterial defects in the mailing of such notices shall not affect the validity of such notices.
- d) All notices to Owners of a default with regard to any obligation of the Owner or notice to Owners of the existence of a lien on a property shall be in writing and shall be delivered by registered or certified United States mail, return receipt requested, postage prepaid.
- e) If notice is to be delivered to the District, the Board, or other designated District agent, the notice shall be delivered to the principal office of the District or at such other physical address, facsimile transmission number or electronic delivery address as shall be designated by notice in writing to the Owners pursuant to this Section.
- f) If notice is to be delivered to an Owner, it shall be deemed to be properly delivered, if delivered by permitted means according to subsections (c) or (d) above, to the physical address, to the email or electronic address, or facsimile transmission number as requested by the Owner which the Owner has designated in writing and is on-file with the District. If no such address is provided to the District, the notice shall be sent to the address on file with the Pocahontas County Tax Assessor’s Office. Immaterial defects in the mailing of

such notices shall not affect the validity of such notices.

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- g) It shall be the sole responsibility of the Owner to maintain the Owner's correct and up-to-date address and all other contact information with the District. If a property is owned by more than one Person, each such Person who so designates an address in writing, according to subsection (d) above shall be entitled to receive all notices hereunder.
- h) It is solely the Owner's responsibility to provide timely notice of change of property ownership within the District for the purpose of providing all notices required by the RAD Act and these Bylaws. If a new property owner within the District fails to notify the District of a change in the property's ownership, any notice provided by the District to the previous property Owner's last known address shall be deemed sufficient.

Section 14.02 Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope of these Bylaws or the intent of any provision thereof.

Section 14.03 Pronoun Use is Non-Specific. The use of pronouns when referring to Owners or Persons in these Bylaws shall not necessarily reflect gender or whether or not the Owner or Person referred to is an individual or a Corporate Person. All such pronouns may be used interchangeably.

Section 14.04 Liberal Construction. These Bylaws of the SRCD being necessary for the public health, safety and welfare, and economic development, shall be liberally construed to effectuate the purpose herein.

Section 14.05 Severability. If any provision of any section or article of these Bylaws or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provisions or applications of any other section or article of these Bylaws which can be given effect without the invalid provision or its application, and to this end, the provisions of each section and article of these Bylaws are declared to be severable.

We HEREBY CERTIFY that we are the duly elected, qualified and acting Chairman and Secretary of the Snowshoe Resort Community District, a West Virginia corporation authorized and established in accordance with WV Code, Chapter 7, Article 25 Resort Area District Act (RAD Act). and that the above and foregoing Bylaws were adopted as the Bylaws of the Snowshoe Resort Community District as of January 14, 2018 by its Board of Directors.

IN WITNESS WHEREOF, I have executed this Certificate as of January 14, 2018.

Chairperson

Secretary

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