

**BY-LAWS  
OF  
POTOMAC VALLEY VISTA PROPERTY  
OWNERS' ASSOCIATION, INC.**

**I. UNIFORM COMMON INTEREST COMMUNITY**

The Association shall be a uniform common interest community pursuant to Chapter 36B of the West Virginia Code.

**II. LOCATION OF PRINCIPAL OFFICE**

The principal office of the Association shall be located at 562 Fire Tower Road, Great Cacapon, West Virginia or at such other place as may be established by resolution by the Board of Directors of the Association.

**III. MEMBERSHIP, VOTING RIGHTS AND ASSESSMENTS**

1. Every person or entity who is a record fee simple owner of a lot within Potomac Valley Vista subdivision shall be a member of the Association, provided that any such person or entity who holds such interest only as a security for the performance of an obligation shall not be a member.

2. Assessments shall be made against each lot and the lots owners of each lot pursuant to the terms and conditions set forth in the Declaration. Each lot shall be assessed annually in January pursuant to West Virginia Code §36B and provided further that the maximum annual fee shall not be increased by more than 10% in any one year unless approved by the written affirmative vote of two-thirds of the lot owners entitled to vote at an annual meeting. The affirmative vote of the membership to raise the maximum allowable annual fee by more than 10% in any given year shall be recorded in the minutes of the Association.

3. No lot or the property owner(s) thereof in default on the payment of the annual assessment as of May 1<sup>st</sup> shall be entitled to vote at the annual meeting or any special meeting called for the membership over the following twelve (12) months.

4. Twenty percent (20%) of the lots in Potomac Valley Vista shall constitute a quorum. A majority of the votes cast at any meeting, in person or by proxy, shall determine the question.

5. Every lot shall be entitled to one vote. Lots with multiple owners shall designate, from among themselves, the person entitled to cast the vote for the lot owned by them. Membership shall be appurtenant to, and may not be separated from, ownership of any lot which is subject to assessment.

6. Any assessments, together with interest at twelve percent (12%) and costs incurred by the Association in securing payment of any assessment (which costs shall include reasonable attorney's fees), shall, in addition to being the personal obligation of the lot owners, be a lien upon the lot against which the assessment was made. The Association shall have the power to file among the land records of Morgan County, West Virginia, a duly executed and acknowledged lien for any unpaid assessments together with interest and costs, as defined above.

7. Voting by proxy shall be permitted provided the proxy is recognized valid under this section and existing state law, is signed by all property owners of the lot, and is filed with the Secretary of the Association before the meeting is called to order. A member may revoke a proxy given under this section only by actual notice of revocation to the person presiding over the meeting of the Association. A proxy is void if it is not dated or proposes to be revocable without notice. Proxy terminates one (1) year after the date signed, unless it specifies a shorter term.

#### **IV. BOARD OF DIRECTORS AND BOARD MEETINGS**

1. The initial Board of Directors shall be appointed by the incorporators. The Board of Directors shall consist of up to five (5) persons who shall serve staggered terms of three (3) years. The initial Board of Directors shall designate from among themselves one member to serve a one (1) year term, two directors to serve a two (2) year term and two directors to serve a three (3) three year term. Each Director elected thereafter shall be elected to serve for a three (3) year term.

2. A majority of the Board of Directors shall constitute a quorum to transact business at any meeting of the Board, and the action of the majority present at a meeting at which a quorum is present shall constitute the action of the Board of Directors.

3. Any vacancy occurring on the Board of Directors because of death, resignation or removal shall be filled by the Board of Directors. A Director appointed to fill a vacancy shall be appointed for the unexpired term of his predecessor in office and until his successor shall have been elected and/or appointed and qualified.

4. The Directors of the Association shall be entitled indemnification as provided in West Virginia Non-Profit Corporation law, the provisions of which are hereby incorporated by reference and made a part hereof.

5. The regular meeting of the Board of Directors shall be held quarterly in March, June, September and December at the principal office of the Association; unless some other place or time is designated by the Board. Regular meetings of the Board of Directors shall be held on such days and at such time and place as noticed or as provided by appropriate resolution of the Board of Directors.

6. If such regular meetings of the Board are later established by resolution for a month, day, time and place certain then notice is hereby dispensed with. If the day for a regular meeting shall fall upon a holiday, the meeting shall be held at the same hour on the first day following which is not a holiday, and no notice thereof need be given.

7. Special meetings of the Board of Directors shall be held when called by the President of the Association or by any three (3) Directors after not less than five (5) days' notice to each Director. Notice of a special meeting shall be by email or US mail postage prepaid.

8. The transaction of any business at any meeting of the Board of Directors, however called and noticed, or wherever held, shall be as valid as though made at a meeting duly held after regular call and notice, if a quorum is present.

9. A Director may attend the meeting of the Board in person or by any electronic or telephonic communication method whereby the director may be heard by the other members and hear the deliberation of the other members on any matter properly brought before the Board and his or her vote shall be counted and his or her presence shall noted as if he or she were present in person on that particular occasion.

10. A vote of the Board or any Director thereof can be taken by telephonic means or by email on any matter that the Board has previously had the opportunity to deliberate and review.

11. Any director may waive notice of any meeting in writing. Attendance by a director of any meeting of the Board shall constitute a waiver of notice. If all the directors are present at any meeting, no notice shall be required and any business may be transacted at such meeting.

12. At all meetings of the Board, a majority of the directors shall constitute a quorum for the transaction of business and the vote of the majority of the directors present at a meeting at which a quorum is present shall constitute a decision of the Board. If, at any meeting, there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time.

13. A director may not receive a fee from the Association for acting as such. A director may, by resolution or a vote of the Board, receive reimbursement for necessary expenses actually incurred in connection with carrying out his or her duties.

14. If all the directors consent, in writing, to any action taken or to be taken by the Association, and the number of directors constitutes a quorum for such action, such action shall be a valid corporate action as though it had been authorized at a meeting of the Board of Directors. The secretary shall file such consent with the minutes of the meeting of the Board.

## **V. ELECTION OF DIRECTORS: NOMINATING AND ELECTION COMMITTEES**

1. Nominations for the election of Board members may be made by a Nominating Committee appointed by the Board. All nominees must meet the eligibility requirements in Section IX of these bylaws.

2. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine. In addition to nominations made by the Nominating Committee, petitions for nominees shall be accepted if signed by one-fourth (1/4) of the membership and provided to the Board at least sixty (60) days in advance of the annual meeting.

3. All elections to the Board of Directors shall be made at the annual meeting of the Association on written ballots which shall (a) describe the vacancies to be filled by Members, and (b) set forth the names of those nominated for each vacancy by the Nominating Committee or by petition for such vacancy. Upon receipt of such ballots such members and representatives may, in respect to each vacancy, cast as many votes for the persons nominated as they are entitled to exercise under the provisions of the Articles of Incorporation and these By-Laws.

4. The completed ballots shall be returned to the Secretary of the Association at the annual meeting. The ballots shall be counted by the Secretary in the presence of the elections' inspectors (if any) and the results announced to the members of the Association at the conclusion of the annual meeting.

5. The members of the Board of Directors elected or appointed in accordance with the procedures set forth in this Article, shall be deemed elected or appointed as of the date of the next meeting of the Board of Directors.

6. The term of office for a member of the Board of Directors shall be three years, except that for the initial Board, one member shall serve one year, two members shall serve two years and two members shall serve three years.

## **VI. POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

1. The Board of Directors shall have the power:

A. To call meetings of the members.

B. To appoint and remove at pleasure all officers, agents and committee members of the Association, prescribe their duties, and require of them such security or fidelity bond as it may deem expedient.

C. To establish, levy and assess, and collect, pursuant to the Declaration and these bylaws, annual assessments, and all interests, costs, and attorneys fees, incurred to secure payment thereof, necessary to operate the Association and carry on its activities, and to create such reserves for extraordinary expenditures as may be deemed appropriate by the Board of Directors.

D. To authorize and cause the Association to enter into contracts for the day to day management or operation of the Association and the discharge of its

responsibilities and obligations which contracts may obligate funds of the Association for authorized expenses.

E. To exercise for the Association all powers, duties and authority vested in, delegated to the Association, or permitted under state law, except those reserved to members in the Declaration or the Articles of Incorporation of the Association.

F. To adopt and amend by-laws, and rules and regulations.

G. To adopt and amend budgets for revenues, expenditures and reserves.

H. To collect assessments for commons expenses from lots and lot owners.

I. Hire and discharge managing agents, accountants, and lawyers, as needed for the Association or the Board.

J. Hire and discharge employees and agents other than managing agents and independent contractors.

K. Institute, defend or intervene in litigation for administrative proceedings or seek injunctive relief for violation of the Associations Declaration, By-laws or rules in the Associations name on behalf of the Association.

L. To make contracts and incur liabilities.

M. To regulate the use, maintenance, repair, replacement and modification of common areas.

N. To cause additional improvements to be made as part of the common areas.

O. To grant easements for any period of time including permanent easements, and leases, licenses and concessions for no more than one (1) year, through of over the common areas.

P. To impose and receive a payment, fee or charge for the use or rental of a common area.

Q. To impose a reasonable charge for a late payment of assessments and, after notice and hearing to levy a reasonable fine for a violation of the Declaration, By-laws, rules or regulations of the Association.

R. To impose a reasonable charge for the preparation of a re-sale certificate as defined in the By-laws.

S. To provide for the indemnification of the Association's officers and executive board and to maintain directors and officers liability insurance.

T. To exercise any other power conferred by the Declaration or By-Laws.

U. To exercise any other power that may be exercised in this state by a legal entity of the same type as this Association.

V. To exercise any other power necessary and proper for the governance and operation of the Association.

W. To establish committees to assist and carry out the directives of the Board.

2. It shall be the duty of the Board of Directors:

A. To cause to be kept a complete record of all its acts and corporate affairs.

B. To supervise all officers, agents and committee members of this Association and to see that their duties are properly performed.

C. With reference to assessments of the Association:

(1) To fix the amount of the annual assessment against each lot and its owners. The Board can permit the payment of the annual assessment in equal monthly installments, offer early payment discounts, and provide by resolution for interest of up to twelve percent (12%) on all delinquent assessments, and reasonable late fees not to exceed one hundred percent (100%) of the annual assessments in any one year.

(2) To prepare a roster of the members and outstanding assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any member only in a redacted form, to protect the individual financial information of the members.

(3) To send written notice of each annual assessment and proposed budget to the members at least thirty (30) days in advance of the annual meeting.

(4) To issue or cause an appropriate officer to issue, upon demand, a resale certificate setting forth whether assessments on the lot being conveyed have been paid and/or the outstanding balance owed. Such certificate shall be prima facie evidence of any assessment therein stated to have been paid or unpaid.

(5) To assess interest and costs, inclusive of attorneys fees, incurred by the Association in obtaining payment of past due assessments, against the defaulting member(s).

(6) To lien or file such legal action as necessary to secure past due assessments.

(7) To compromise any and all claims of the Association for past due assessments.

D. The Board of Directors shall as long as the finances of the Association may permit:

(1) Enforce, in its own name any or all covenants or restrictions within the Declaration or which may be lawfully imposed on or against any of the property in the subdivision. The expenses and costs of any enforcement proceedings, including reasonable attorney fees, shall be paid out of the assessments levied by the Association. Nothing contained in this paragraph shall be deemed or construed to prevent any owner from enforcing in his or her own name any of the covenants or restrictions within the Declaration.

(2) Manage and control all common areas and the improvements located on them in the subdivision, provided that such management and control shall at all times be subject to the laws, regulations, ordinances, and the like of Morgan County, and the State of West Virginia.



(3) Mow, care for, maintain, and remove rubbish from vacant and unimproved property and to do any other things necessary or desirable in the judgment of the directors of the association to keep any vacant and unimproved property and the parking in front of any property in the subdivision neat in appearance and in good order.

(4) Provide for the plowing and removal of snow from streets.

(5) Provide such lights as the Association may deem advisable on streets, gateways, entrances, and in other common areas.

(6) Provide for the cleaning of streets and common drainage easements and for the repair and maintenance of streets and appurtenant drainage facilities.

(7) Erect and maintain signs for the marking of streets and safety signs for the protection of children and other persons.

(8) Exercise control over such easements as it may acquire from time to time.

(9) Acquire by lease or own the title to such real estate as may be reasonably necessary in order to carry out the purposes of the association, and to pay taxes on such real estate as may be owned or leased by it, and to pay such taxes as may be assessed against land in common areas within the subdivision.

(10) Levy and collect the assessments which are provided for in the Declaration, By-laws, or other governing document.

## **VII. ANNUAL AND SPECIAL MEMBERSHIP MEETINGS**

A. The annual meeting of the membership of the Association shall be held on or before the 30<sup>th</sup> day of June each year. At such meeting, the director shall be elected by ballot of membership in accordance with the provisions of these By-laws. The membership may transact other business at such meeting as may properly come before it.

B. Special meetings of the membership may be called by the president, by a majority of the directors, or by petition of the membership comprising twenty percent (20%) of the votes in the Association.

C. Meetings of the Association's membership shall be held in Morgan County, West Virginia at such place convenience to the membership as may be designated by the Board.

D. Notice of the annual meeting shall be sent no less than thirty (30) nor more than forty-five (45) days before the annual meeting. The secretary or other designated officer shall cause notice to be sent: i) prepaid by United States mail to the mailing address of each lot, or ii) to that address separately designated in writing by the lot owners, or iii) to that email address separately designated in writing by the lot owners.

E. Any lot owner may, at any time, waive notice of any meeting of the Association in writing and such waiver shall be deemed the equivalent to the receipt of such notice. Any lots appearance at any meeting by a member shall constitute a waiver of notice.

F. At any meeting of the membership, the majority of the lots who are present at such meeting, either in person or by proxy, may adjourn the meeting from time to time.

G. In the absence of a written agenda, the order of business at all meetings of the membership shall be as follows:

- roll call;
- proof of notice of meeting;
- reading of the minutes at preceding meetings;
- reports;
- establish numbers and remaining terms of membership on the Board of Directors (if required in notice);
- appointment of inspectors of the election (when required);
- election of directors of the board of directors by written ballot (when required);

- ratification of budget (if required and noticed);
- unfinished business;
- new business;

H. The vote of the majority of the lots present, in person or by proxy, at a meeting at which a quorum shall be present shall be binding upon the Association for all purposes except where a higher percentage vote is required in the Declaration, these By-laws or by law.

### **VIII. OFFICERS**

1. The officers shall be a President, Vice-President, Secretary, and Treasurer, and such other officers as may be determined by the Board to be from time to time appropriate. The Officers shall be members of the Board of Directors and hold office for a one year term.

2. The officers of the Association shall be appointed by the Board of Directors annually from among them at the first regular meeting of the Board of Directors following the annual meeting of the Association. New officers may be created and filled at any meeting of the Board of Directors. Each officer shall hold office until his successor has been duly appointed and qualified.

3. A vacancy in any office because of death, resignation, or other termination of service, may be filled by the Board of Directors for the unexpired portion of the term.

4. All officers shall hold office at the pleasure of the Board of Directors, except that if an officer is removed by the Board, such removal shall be without prejudice to the contract rights, if any, of the officer so removed.

5. The President shall preside at all meetings of the Board of Directors and the Executive Committee, shall see that decisions and resolutions of the Board of Directors are carried out and sign all notes, checks, leases, mortgages, deeds and all other written instruments.

6. The Vice President, or the Vice President so designated by the Board of Directors, if there is more than one (1) Vice President, shall perform all the

duties of the President in his absence. The Vice President(s) shall perform such other acts and duties as may be assigned by the Board of Directors.

7. The Secretary shall be *ex officio* the Secretary of the Board of Directors, and shall record the votes and keep the minutes of all proceedings in a book to be kept for the purposes. He shall keep the records of the Association. He shall record in the book kept for those purposes all the names of the members of the Association together with their addresses as registered by such member.

8. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors, provided, however, that a resolution of the Board of Directors shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board. The Treasurer may, but need not, be a required signatory on checks and notes of the Association. The Treasurer, or his appointed agent, shall keep proper books of account and cause an annual review of the Association books be made at the completion of each fiscal year. He or his appointed agent shall work with the President and Secretary to prepare an annual budget and an annual balance sheet statement and the budget and balance sheet statement shall be open for inspection at a mutually acceptable time and place upon request by a member.

9. The Officers of the Association shall be entitled to indemnification as provided in West Virginia Non-Profit Corporation law, the provisions of which are hereby incorporated by reference and made a part hereof.

## **IX. REMOVAL OF MEMBERS OF BOARD OF DIRECTORS**

A member of the Board of Directors shall be deemed unqualified to serve and shall be automatically removed upon the happening of any of the following events:

1. Failure to own real estate within the subdivision; However, this provision shall not be deemed to include any transfer by a member to a trust for estate planning purposes.

2. Malfeasance, nonfeasance or misfeasance determined by the unanimous vote of the remaining directors or a court of law.

3. Incompetency or incapacity of a member of the Board established by court of law or a medical practitioner.

4. Such other matters as the Board in its discretion may unanimously determine appropriate for the removal of the director.

5. By a two-thirds (2/3) vote of all members of the Association at a meeting called for that special purpose.

6. Failure to attend three (3) or more consecutive regularly scheduled meetings of the Board.

7. Owning an interest in a lot which is in violation of the Declaration of Covenants and Restrictions, including, but not limited to, the failure to remain current on assessments.

## **X. COMMITTEES**

The standing committees of the Association shall be:

### **The Maintenance Committee**

1. The committee shall be appointed by the Board of Directors to serve until succeeding committee members have been appointed. The Board of Directors may appoint such other committees as it deems advisable.

2. The Maintenance Committee shall advise the Board of Directors, on all matters pertaining to the maintenance, repair or improvement of property in Potomac Valley Vista Subdivision, and shall perform or seek the performance of such other functions as the Board, in its discretion, determines.

3. The Maintenance Committee and other committees appointed and so empowered by the Board of Directors shall have the power to appoint subcommittees from among their membership and they may delegate to any subcommittees any powers, duties and functions.

4. It shall be the duty of each committee to receive complaints from members on any matter involving Association functions, duties and activities within its scope of responsibility. It shall dispose of such complaints as it deems

appropriate or refer them to such other committee, Director or officer of the Association which is further concerned with the matter presented.

## XI. BOOKS AND PAPERS

B. All books, records and papers of the Association shall be available for inspection and audit by any Member of the Association within a mutually reasonable time and at a mutually agreed upon place upon the receipt of written notice from the inspecting Member setting forth a valid reason for the requested inspection. Absent a court order, all financial ledgers and financial records of individual members maintained by the Association which are to be inspected by the member shall be redacted to protect the name, address and personal financial information of the individual members. No copying of the records by photography or digital imagery shall be permitted.

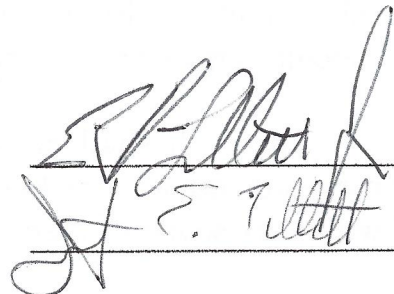
## XII. AMENDMENTS

These By-Laws may be altered, amended or repealed by majority vote of the lots in Potomac Valley Vista or by 90% of the lots present at the annual meeting or a duly constituted special meeting of the Potomac Valley Vista Property Owners Association, Inc. called for that purpose. In either event, notice of the proposed amendment shall be provided to the membership at least thirty (30) days in advance of the vote upon the amendment.

WITNESS the following signature(s) and seal(s):

### CERTIFICATE

The foregoing were adopted as the By-Laws of POTOMAC VALLEY VISTA PROPERTY OWNERS ASSOCIATION, INC., a corporation not for profit under the laws of the State of West Virginia, on this 6<sup>th</sup> day of ~~October, 2018.~~  
Feb, 2019. *TH*




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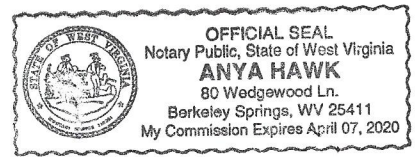
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STATE OF WEST VIRGINIA  
COUNTY OF Morgan, to-wit:

The foregoing By-Laws of Potomac Valley Vista Property Owners Association, Inc., Inc., was acknowledged before me this 6 day of February, 2019, by Jennifer Tillett and Eleazar Tillett, President and Secretary, respectively, on behalf of the Corporation.

  
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Notary Public

My Commission Expires: 4/7/2020



This Document Prepared By:  
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