

Draft

1 The Town Council of the Town of Burrillville hereby ordains as follows:
2

3 Ordinance Establishing the
4 Pascoag Reservoir/Echo Lake Dam Management District
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- 6 1) **Authority.** – Pursuant to the authority granted to the Town Councils of the Towns of
7 Burrillville and Glocester by the provisions of RI Gen Laws 45-62-3 the respective Town
8 Councils for the Towns of Burrillville and Glocester do hereby establish a multi-
9 jurisdictional Dam Management District to be known as the Pascoag Reservoir/Echo Lake
10 Dam Management District (hereinafter the Management District.)
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- 12 2) **Purpose.** – The purpose of the Management District is to prevent threats to the general
13 public welfare, public safety and public and private property caused by the failure or breach
14 of the Pascoag Dam (consisting of the Main Dam and the West Dike) (“the Dam”) and to
15 protect the values associated with the Dam through the implementation of Dam repairs,
16 maintenance and management by apportioning among and collecting from the owners of
17 property within the district the costs of maintaining and repairing the Dam and the access
18 routes to the Dam, and to pay the costs of utilities servicing, taxes, and other financial
19 assessments, assessed against properties of the Management District, and the costs of
20 administering the Management District.
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- 22 3) **Area.** – The district shall consist of the area bounded by the following: **To be supplied.** The
23 area within the boundaries described in this section shall be known as the Pascoag
24 Reservoir/Echo Lake Dam Management District. The intent in formulating the boundaries of
25 the District is to include all those properties which adjoin and abut Pascoag Reservoir/Echo
26 Lake as well as those properties which may not abut or adjoin Pascoag Reservoir/Echo Lake
27 but enjoy access to the Reservoir by deed or some other written instrument.
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- 29 4) **Powers and Duties.** – The Management District shall have the power to:
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- 31 a. Provide for entry of city, town, state or Management District officials in a manner
32 equivalent to the provisions of § 23-27.3-112.0, onto private property within the
33 Management District when necessary for the periodic inspection, maintenance and/or
34 repair of the Dam and appurtenant facilities necessary to prevent threats to the general
35 public welfare, public safety and public and private property;
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 - 37 b. Provide for the supervision, control, maintenance, repair and/or reconstruction of the
38 Dam, including activities relating to Dam removal necessary to prevent threats to the
39 general public welfare, public safety and public and private property;
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 - 41 c. Establish a public education program to educate residents and update members of the
42 Management District on new information or procedures for proper maintenance and
43 operation of the Dam and the implications for failing to operate and maintain the Dam in
44 a manner that meets generally accepted dam safety practices;
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- d. **Raise and expend funds for the administration, operation, contractual obligations, and services of the district, and fix and collect rates, fees, and charges within the Management District for the provision of dam management services by the Management District. In connection therewith, the Management District may raise money as provided herein and may borrow money and repay it through the sale and redemption of bonds or other securities;**
 - e. **Employ staff, counsel, and consultants as necessary to carry out the functions of the Management District and purposes of this chapter;**
 - f. **Acquire, hold, use, sell, transfer and lease real or personal property necessary for access, maintenance, repair or operation of the Dam including the lake bed of Pascoag Reservoir/Echo Lake, and to own, operate, maintain, repair, improve any property acquired. However in no event shall the Management District have the power to acquire land through eminent domain or condemnation proceedings and in no event shall public access to the Pascoag Reservoir/Echo Lake be affected.**
 - g. **Apply for, contract for, receive, and expend grants and loans for the maintenance, repair, removal and/or reconstruction of the Dam, and for other activities authorized by this chapter; and**
 - h. **Adopt a common seal, sue and be sued, and enjoy the powers generally incident to corporations.**
- 5) **Exempt Entities. – Any dam or property owned and furnished by any municipality, water district, fire district or any other municipal or quasi-municipal corporation that is regulated as a water supplier by the Rhode Island Public Utilities Commission under chapter 1 of title 39 and subject to the provisions of chapter 15.6 of title 46 shall be exempt from the provisions of this ordinance.**
- 6) **Lien of district fees. – All fees and charges assessed against any person in the Management District pursuant to this ordinance shall constitute a lien upon that person's real estate in the district for the space of three (3) years after the assessment, and, if the real estate is not alienated, then until the fees are collected.**
- 7) **Indemnification. – Any elected or appointed district official, employee, or member of the Management District is entitled to all the rights and benefits of indemnification by the district, as provided by § 45-15-16.**
- 8) **Voting. –**
- a. **“Eligible Voter” shall mean the owner(s) of property [parcel(s) of land or a dwelling on leased land or on land owned by a Homeowner’s Association] located in the Management District and assessed by the Burrillville and/or Glocester Assessors' Office for real estate tax purposes.**
 - i. **The term "owner" or "owners" as used herein shall mean those persons identified as the assessed owners of such property according to the records of the Burrillville and/or Glocester Assessors' Office as of sixty (60) days before the scheduled date of any meeting at which votes are cast.**

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- ii. **If, however, such owners have transferred the property and the successor(s) have not yet been identified by such records as the assessed owners thereof, the successor(s) may file with the Board of Directors a certified copy of the recorded deed or other official evidence of ownership. Such documentation shall serve to establish that such successors are the successors to the owners of record of the property, and shall be considered owners for all purposes hereunder.**
 - b. **If there is more than one owner of any such property, all such owners shall jointly designate in writing one owner who shall be the Eligible Voter therefore, entitled to cast the vote on behalf of all owners. Such designation shall be filed with the Board of Directors. A vote cast by an Eligible Voter shall be deemed to be the vote of all the owners in concert.**
 - c. **Notwithstanding the above, an Eligible Voter shall only be entitled to cast one vote regardless of how many properties the owner may hold title to.**
 - d. **The term Burrillville and/or Glocester Assessor's Office as used herein shall, when the context so requires, include the Burrillville and/or Glocester Collector's Office, or other department of the town which is required to make and keep assessments of real and personal property therein.**
 - e. **Each Eligible Voter shall have one vote on matters concerning the Management District on which they are entitled to vote, including the budget, as hereinafter provided.**
- 9) **Any personal or real property owned by the Management District shall be assessed and taxed in a manner consistent with local, state and federal law.**
- 10) **Initial Meeting. –**
- a. **Upon the passage of this ordinance, the Board of Directors for the Management District shall within six (6) months call the Initial Meeting of the Management District for the purpose of adopting by-laws. Within six (6) months from the approval of by-laws, the Board of Directors for the Management District shall call the Initial Budget Meeting of the Management District in accordance with the duly adopted by-laws of the Management District.**
 - b. **The Board of Directors shall provide a copy of the proposed by-laws, and a notice of the time and place of the Initial Meeting via first class mail to the owners of property located within the Management District. Information will be sent to owners at the mailing addresses listed in the records of the Burrillville and/or Glocester Assessors' Office. If successor(s) have been established as herein provided, information will be sent to the address, if any, provided to the Board of Directors in writing by such successor(s).**
 - c. ***Quorum.* A quorum at the Initial Meeting of the Management District shall be twenty (20) Eligible Voters**
 - d. **All action, business and procedures that could take place at any Annual Budget Meeting may take place at the Initial Budget Meeting, and the assessment, collection and enforcement of any amounts approved at such meeting shall be governed accordingly.**

146 **11) Annual Budget Meetings.**
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- 148 **a. After the Initial Budget Meeting, subsequent Annual Budget Meetings shall be held as**
149 **specified in by-laws duly adopted by the Management District.**
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- 151 **b. The Board of Directors for the Management District shall prepare the budget for the**
152 **Management District each year. The proposed budget and a notice of the date, time and**
153 **place of the Annual Budget Meeting shall be sent to all property owners in the**
154 **Management District in accordance with the by-laws duly adopted by the Management**
155 **District.**
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- 157 **c. Quorum**
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- 159 **i. A quorum at the Annual Budget Meeting of the Management District shall be as**
160 **specified in by-laws adopted by the Management District.**
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- 162 **ii. In the event that, for any reason, a quorum is not present at the time a meeting is**
163 **scheduled to open, the Board of Directors is authorized to delay the opening time**
164 **or postpone said meeting for such period of time as, in the discretion of the Board**
165 **of Directors, shall best serve the interests of the Management District. Notice of**
166 **the postponement shall be as specified in the by-laws duly adopted by the**
167 **Management District.**
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- 169 **iii. If any meeting has been postponed two times for lack of a quorum, the meeting**
170 **may be held with the Board of Directors, who shall be empowered to vote upon all**
171 **matters legally before the meeting.**
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- 173 **d. In voting upon or in connection with any amendments to the proposed budget the**
174 **Eligible Voters or the Board of Directors, as the case may be, shall consider and establish,**
175 **plans for:**
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- 177 **i. The construction, maintenance, management, preservation and support of the**
178 **Dam and related facilities, lake and property.**
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- 180 **ii. The purchase or rental of all necessary equipment and generally all things**
181 **necessary and proper for managing the Management District, and carrying into**
182 **effect and attaining the purpose of this ordinance.**
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- 184 **iii. The improvement or the payment of expenses relating to property belonging to**
185 **the Management District and used by the residents in connection with the Dam,**
186 **including access routes and facilities.**
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- 188 **iv. The creation of a reserve fund for the future management and replacement of**
189 **property and equipment.**
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- 191 v. **The periodic auditing of the financial records of the Management District.**
192 **Periodic audits shall be conducted as specified in the by-laws duly adopted by**
193 **the Management District, provided that there is no longer than a three-year**
194 **interval between such audits. Copies of the audit, certified by the secretary of**
195 **the Management District, shall be filed with the Town Clerks of the Town of**
196 **Burrillville and the Town of Gloucester.**
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- 198 vi. **The times for payment of management charges and fees and the penalties for**
199 **late payments.**
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- 201 vii. **Payment of any charges and expenses arising within the Management District,**
202 **incidental or not to the above.**
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- 204 viii. **Borrowing funds necessary to perform the services authorized herein.**
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- 206 e. **Approval of the budget shall be by a majority of the votes cast.**
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- 208 f. **The amount approved for the budget at the Annual Budget Meeting shall immediately,**
209 **without the necessity of the recording of any document with the Burrillville and/or**
210 **Gloucester Town Clerk in the land evidence records or otherwise, become a lien upon all**
211 **properties within the Management District and shall be payable as established at the**
212 **Initial or any Annual Budget Meeting. The lien shall have priority over all other liens,**
213 **interests and encumbrances except, municipal taxes of the Town of Burrillville and/or the**
214 **Town of Gloucester, Fire District taxes and sewer and water assessments and taxes and**
215 **other liens held by the State of Rhode Island. The lien hereunder shall endure for a**
216 **period of three (3) years after the assessment thereof and, if the real estate is not**
217 **alienated, then until the fees are collected.**
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- 219 g. **In addition to voting upon the budget, Eligible Voters or the Board of Directors, as the**
220 **case may be, shall vote upon any other matters that shall legally come before them.**

221 **12) Special Meetings. –**

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- 224 a. **Special meetings of the Management District may be called in accordance with the by-**
225 **laws, duly adopted by the Management District.**
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- 227 b. **A quorum at any Special Meeting of the Management District shall be as specified in the**
228 **by-laws duly adopted by the Management District. In the event that, for any reason, a**
229 **quorum is not present at the time a meeting is scheduled to open, the Board of Directors**
230 **is herewith authorized to delay the opening time of said meeting for such period of time,**
231 **or to postpone it indefinitely, as in the discretion of the Board of Directors shall best serve**
232 **the interests of the Management District.**
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- 234 c. **Approval of matters voted upon at any special meeting shall be in accordance with by-**
235 **laws adopted by the Management District.**
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237 **13) Collection of Management fees. –**
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- 239 **a. Within sixty (60) days after the approval of the budget at the Initial or any Annual**
240 **Budget Meeting the Board of Directors shall cause the collector to mail to the owners of**
241 **each property located within the Management District bills for the collection of the**
242 **amounts due with respect to any property.**
243

244 **Management District Bills may be based on a flat rate established by the Board of**
245 **Directors to be applied uniformly on property located within the Management District or**
246 **may be based on a rate to be established by the Board of Directors and applied against**
247 **assessed values of property in the Management District in accordance with Section 15(c)**
248 **of this ordinance, or may be a combination of a flat rate and assessed value rate.**
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250 **Bills will be mailed via first class mail, to the owners of each property located within the**
251 **Management District, in each case addressed to such owners at the mailing address**
252 **specified in the records of the Burrillville and/or Gloucester Assessors' Office for the**
253 **mailing of real estate tax bills, or to the successor(s) established as herein provided to the**
254 **address, if any, provided to the Board of Directors in writing by such successor(s).**
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- 256 **b. The treasurer shall upon request issue a lien certificate which shall state any amounts of**
257 **management fees that are due and owing on the date said certificate is given. Any such**
258 **certificate may be recorded within one hundred and fifty days after its date with the**
259 **Burrillville and/or Gloucester Town Clerk in the land evidence records, and if so recorded**
260 **shall operate to discharge property specified from the lien of all amounts due for**
261 **management fees which do not appear by said certificate to be due and owing, except**
262 **such fees that arise after the date shown on the certificate or which are the subject of a**
263 **recorded statement of lien, as herein provided; but a certificate issued under this section**
264 **shall not affect the obligation of any person liable for the payment of any management fee**
265 **by reason of being assessed owner of such property at the time any such lien arose.**
266 **Collection of management fees shall be in the same manner as provided by law for the**
267 **collection of taxes by municipalities and the collector of fees for said Management District**
268 **shall, for the purpose of collecting fees assessed by said Management District, have the**
269 **same powers and authority as are now by law conferred on collectors of taxes for towns**
270 **in the state.**
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272 **14) Board of Directors.**
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- 274 **a. The board of directors shall consist of seven individuals all of whom must be Eligible**
275 **Voters of the Management District. Five members of the Board of Directors shall be**
276 **owners of property in the Town of Burrillville and two members shall be owners of**
277 **property in the Town of Gloucester.**
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- 279 **b. Upon passage of this ordinance, the initial composition of the Board of Directors shall be**
280 **determined as follows: the Burrillville Town Council shall appoint five (5) individuals to**
281 **the Board of Directors and the Gloucester Town Council shall appoint two (2) individuals**
282 **to the Board of Directors. The initial members of the Board of Directors shall serve until**
283 **the first Annual Budget Meeting. Thereafter, the Board of Directors shall be elected by**
284 **majority vote of a quorum, for terms as established in the Management District by-laws.**
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- c. **The Board of Directors shall elect one of its members as president, one of its members as vice president, and one of its members as secretary. The president, and in the president's absence, the vice president, shall preside at all meetings of the Management District and shall conduct all meetings in accordance with rules duly adopted by the Management District.**
 - d. **The Board of Directors shall appoint all officers and committees and shall have the authority to designate individuals to act on behalf of the Board for specific tasks and assignments, as identified by the Board.**
 - e. **The Board of Directors shall vote to fill vacancies on expired or unexpired terms of duly appointed officers**
 - f. **The President of the Board of Directors shall administer the oath of office to the officers.**
 - g. ***Secretary.***
 - i. **The secretary shall on behalf of the Board of Directors give notice of every Annual Budget Meeting or special meeting of the Management District as specified in the by-laws duly adopted by the Management District.**
 - ii. **The secretary shall take the minutes of all meetings and shall be held responsible for the management of same.**
 - iii. **The secretary of the Management District shall file with the Town Clerks of the Towns of Burrillville and Gloucester the unofficial minutes of any meeting of the Management District within thirty-five (35) days of the meeting. Upon approval of the minutes, the secretary shall provide certified copies of the approved minutes of all proceedings to the Town Clerks.**
 - iv. **On receipt of the assessment from the Assessor, the Secretary shall deliver a copy to the Treasurer, who shall issue and affix to said copy, a warrant under his hand, directed to the Collector of Taxes, commanding him to proceed and collect said fees.**
 - v. **The secretary shall carry out the functions of the treasurer in his or her absence or disability and shall have authority to sign checks and assume other duties of the treasurer.**
 - h. **The Board of Directors, at each Annual Budget Meeting, shall make a report to the Eligible Voters of the Management District of the state of affairs of the Management District. Financial and other records of the Management District shall be open for inspection by the owners of properties within the Management District at reasonable times and upon reasonable notice.**

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- i. Whenever a vacancy shall occur in the Board of Directors either through death, resignation or disability or removal for cause as provided in the by-laws of the Management District, the remaining members of the Board of Directors shall appoint a resident who is also an Eligible Voter of the Management District to serve in such capacity until the next annual meeting, and until their respective successors are elected.**
 - j. The Board of Directors shall have the authority to retain legal counsel at an annual cost to be determined by the Eligible Voters of the Management District. Said legal counsel shall be available in an advisory capacity for all committees of the Management District and shall render legal opinions, whenever requested to do so.**
 - k. The Board of Directors, acting on behalf of the Management District, shall have the right to sue and be sued in the courts of this state having jurisdiction to hear, try or determine such causes. The Management District shall indemnify and hold harmless any elected or appointed district official for damages, judgments, settlements, costs and expenses incurred in connection with any action, suit or appeal therefrom, arising out of an alleged or actual breach of duty, neglect, error, misstatement, or omission, unless willfully and intentionally done, or by reason of their being an officer of the Management District.**
 - l. The Board of Directors shall have the power to set compensation if any for its members and the officers and agents of the Management District.**
 - m. The Board of Directors, upon majority vote of those in attendance at an Annual Budget or duly called special meeting, shall have the power to adopt by-laws for the administration and governance of the Management District which shall not conflict with or be inconsistent with the provisions of this ordinance.**
 - i. Said by-laws shall include, but are not limited to:**
 - date, time and location of meetings;**
 - quorum requirements for all meetings, with the exception of the initial meeting;**
 - procedure for meeting notices, including call, postponement or cancellation of meetings;**
 - provisions for approval of matters at special meetings;**
 - schedule for assessments, delivery of funds from the Collector to the Treasurer, and payment of bills;**
 - procedure for and frequency of audit;**
 - establish the term for the Board of Directors and corporate officers;**
 - application procedure for appointment of corporate officers;**
 - define authority of corporate officers;**
 - provisions for removal of member of the Board of Directors and/or corporate officers.**
 - ii. Upon adoption, modification, or amendment of the by-laws of the Management District, the secretary shall file certified copies of the by-laws with the Town Clerks of the Towns of Burrillville and Gloucester.**

377 15) **Officers, Appointment. –**
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- 379 a. **The officers of the Management District shall be appointed by majority vote of the Board**
380 **of Directors and shall be constituted of a collector, assessor, and treasurer; and any other**
381 **office deemed necessary by the Board of Directors and established in the duly adopted**
382 **by-laws of the Management District. Each shall hold office for a term as established in**
383 **the Management District by-laws.**
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385 b. **In no event shall the President, Vice President or Secretary serve as an appointed officer**
386 **nor shall one person serve in more than one appointment position concurrently.**
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388 c. **Upon the passage of this ordinance, the initial officers shall be appointed by majority vote**
389 **of the Board of Directors at the Initial Meeting and will serve until the first Annual**
390 **Budget Meeting. Thereafter, all candidates for appointed office must apply in the manner**
391 **established by the Management District by-laws.**
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393 16) **Officers, Duties and Responsibilities**
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395 a. *Treasurer.*
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- 397 i. **The treasurer, before proceeding to discharge these duties, shall give bond or**
398 **provide insurance to the Management District in such sum and with such surety**
399 **as the Eligible Voters may determine, which will provide for the faithful discharge**
400 **of the duties of office. The premium for said bond or insurance shall be paid by**
401 **the Management District. Said bond shall be deposited with the secretary. Copies**
402 **of said bond or proof of insurance shall be filed with the Town Clerks of the**
403 **Towns of Burrillville and Gloucester.**
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405 ii. **The treasurer shall pay out and expend only those funds that are authorized to be**
406 **expended by vote of the Eligible Voters of the Management District at the Initial**
407 **or any Annual Budget Meeting or special meeting, or as requested by the Board of**
408 **Directors as provided in the by-laws.**
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410 iii. **The treasurer shall have the authority to borrow such sums that may be so**
411 **authorized at the Initial or Annual Budget Meeting or special meeting, and shall**
412 **have the authority to invest any surplus funds, subject to the advice and consent of**
413 **the Board of Directors.**
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415 b. *Collector*
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- 417 i. **The collector, before proceeding to discharge these duties, shall, give bond or**
418 **provide insurance to the Management District in such sum and with such surety**
419 **as the Eligible Voters may determine, which will provide for the faithful discharge**
420 **of the duties of office. The premium for said bond or insurance shall be paid by**
421 **the Management District.**
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423 ii. **Upon approval of the budget at the Annual Budget Meeting, the collector shall, on**
424 **behalf of the Board of Directors, produce management fee bills based on the**
425 **budget approved by the Eligible Voters of the Management District, and in**
426 **accordance with the established apportioning method.**

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- iii. **The Collector shall maintain records of all collections and delinquent charges and provide annual written reports thereof.**
 - iv. **The bills shall be mailed as herein provided no later than sixty (60) days after the Initial or any Annual Budget Meeting or any special meeting establishing amounts due and shall be payable within sixty (60) days after they have been mailed, unless otherwise established in the by-laws duly adopted by the Management District, and shall indicate when payments are due and the penalties for late payments.**
 - v. **The collector shall pay over to the treasurer the total management fees collected, at intervals established in the by-laws duly adopted by the Management District.**
 - vi. **The collector may, at any time while a management fee is due and owing but unpaid, record a statement of lien with the Burrillville and/or Glocester Town Clerk in the land evidence records indicating the amount due. Additional amounts thereafter becoming due shall be secured by said statement without the necessity of recording further statements. The collector or the treasurer may discharge the lien by a release filed with the Burrillville and/or Glocester Town Clerk in the land evidence records that makes specific reference to the recorded statement. No release shall be given by the collector or treasurer unless all management fees then due and owing and all charges associated with the recording of any statement of liens or the release itself shall be paid.**
 - vii. **The collector shall be empowered, subject to approval by a majority of the Board of Directors, to appoint an agent for collection of management fees. Said agent, at the time of appointment, shall give bond or provide insurance to the Management District in such sum and with such surety as the Eligible Voters of the Management District shall determine, which will provide for the faithful performance of the duties of said agent.**

458 *c. Assessor*

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- i. **The Assessor shall determine and assess the value of each parcel located within the boundaries of the Management District based on its assessed value as made by the respective tax assessors for the Towns of Burrillville and Glocester as of December 31st of each year and shall provide this information to the secretary, at a time specified in the by-laws duly adopted by the Management District.**

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- 17) **Reporting to Town and DEM. - At least annually the Management District shall submit complete and detailed reports to the Towns of Burrillville and Glocester and the Department of Environmental Management**

- 470 **18) Amendments to this ordinance. –**
471 **a. In the event fifteen (15) voters at any duly called meeting of the Management District**
472 **shall deem that this ordinance should be amended or revised, then the Board of Directors**
473 **shall appoint a committee, approved by the majority of the Eligible Voters present, to**
474 **study such proposed amendment or revision. Said committee shall report its findings at**
475 **the next Annual Meeting or at a duly called special meeting at which time the approval or**
476 **disapproval of the proposed amendment or revision shall be voted upon. If a proposed**
477 **amendment is approved, then the Board of Directors shall request that the respective**
478 **Town Councils for the Towns of Burrillville and Gloucester amend the ordinance. No**
479 **amendment shall take effect unless approved by the Burrillville Town Council and the**
480 **Gloucester Town Council.**
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- 482 **b. Notwithstanding the above, subsequent to the 2010 Census the Town Councils of the**
483 **Towns of Burrillville and Gloucester may review the composition of the Board of Directors**
484 **to determine whether the apportionment remains equitable and may make amendments**
485 **to the ordinance to maintain balance.**
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- 487 **19) Severability. If any provision of this ordinance or its application to any person or**
488 **circumstances is held invalid, such invalidity shall not affect other provisions or application**
489 **of the ordinance which can be given effect without the invalid provisions or application and**
490 **to this end the provisions of this ordinance are declared to be severable.**