

HOUSE No. 4316

The Commonwealth of Massachusetts

PRESENTED BY:

Smitty Pignatelli and Adam G. Hinds

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing a Beachwood/Lenstock Maintenance District in the town of Stockbridge.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Smitty Pignatelli</i>	<i>4th Berkshire</i>	<i>12/14/2021</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>	<i>12/14/2021</i>

HOUSE No. 4316

By Representative Pignatelli of Lenox and Senator Hinds, a joint petition (subject to Joint Rule 9) of Smitty Pignatelli and Adam G. Hinds (by vote of the town) for legislation to establish a Beachwood/Lenstock maintenance district in the town of Stockbridge. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act establishing a Beachwood/Lenstock Maintenance District in the town of Stockbridge.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Notwithstanding any general or special law, rule or regulation to the
2 contrary, there is hereby established the Beachwood/Lenstock Maintenance District, hereinafter
3 referred to as the “district” in the town of Stockbridge, which shall constitute a body politic and
4 corporate.

5 The district is formed for the purposes of maintaining the private roads and ways within
6 the district and to maintain, operate, and acquire common properties, including, but not limited
7 to, maintenance of the area described in subsection (a) of section 3 as the Beach and the
8 Swimming Area.

9 (A) The district shall consist of the land and easements described and shown on the
10 following plans, all of which are filed with the Berkshire middle district registry of deeds, and
11 which comprise the subdivision known as Beachwood/Lenstock:

12 (1) Beach-Wood Plan No. 1 dated June 26, 1937, recorded with the Berkshire Middle
13 District Registry of Deeds in High Desk Drawer 6, Plan No. 1, including, but not limited to, the
14 parcel designated on Plan No. 1 as “Common Beach”;

15 (2) Beach-Wood Plan No. 2, dated September 10, 1938, Drawer 6, Sheet 2;

16 (3) Beach-Wood Plan No. 3 dated June 1, 1945, Drawer No. 178, Sheet 1;

17 (4) Beach-Wood Plan No. 4 dated October 1, 1946, Drawer 6, Sheet 6;

18 (5) Beach-Wood Plan No. 5 dated May, 1949, Book 417B, Page 28;

19 (6) Beach-Wood Plan No. 6 dated September 19, 1950, Book 417B, Page 71;

20 (7) Beach-Wood Plan No. 7 dated September 19, 1950, Book 417B, Page 80, as revised
21 by a plan entitled “Plan of Lots at Beachwood – Stockbridge Mass. Owned by Victor E.
22 D’Angelo, revised Aug. 1967, Scale 1” = 80’, E.W. Phelps, Engr.” Book 417D, Page 176;

23 (8) Beach-Wood Plan No. 8, dated January 6, 1953, Book 417C, Page 86 as amended by
24 a plan entitled “Revision to Beachwood Plan #8, Stockbridge, Mass. Laid Out by Ruth E. Parker,
25 Scale 1”=80’, John J. Unwin, Surveyor”, undated, recorded on October 6, 1970, Book 417F,
26 Page 215;

27 (9) Beach-Wood Plan No. 9 dated Jan. 1957, Book 417E, Page 16;

28 (10) Beach-Wood Plan of Lot ‘A’, Stockbridge Mass. Laid Out by Ruth E. Parker, dated
29 Aug. 14, 1964, unrecorded, DOC. 5639, referenced in a deed from Russell B. Parker and Emily

30 R. Parker, to Raymond P. Tuggey and Mary A. Tuggey, Book 825, Page 139;

31 (11) Property with an address of 13 Interlaken Cross Road, which abuts property
32 shown on Beachwood Plan No. 8, as revised, as set forth in a deed from Theodore Greenbaum
33 and Barbara M. Greenbaum to Bruce S. Auerbach and Robin Richman, recorded in the same
34 Registry in Book 2659, Page 295 on August 8, 2003;

35 (12) All parcels with frontage on all the roads extending from the Lenox-Stockbridge
36 Highway into Beachwood and all the roads shown on Beachwood Plans 1-9 inclusive, (the
37 “Roads”);

38 (13) All parcels with rights to access the Easement Parcel as defined in the Easement
39 Agreement between Charles A. Parker and Pamela M. Parker and the Beachwood/Lenstock
40 Association, Inc. dated Dec. 7, 1998 and recorded with the same Registry in Book 1636, Page
41 1124, which was amended by “Amendment to the Easement Agreement” recorded in Book 6209
42 Page 129 on June 12, 2018;

43 (14) Together with all other parcels not specifically shown on the plans referenced
44 above, which include written easements to use the Roads and rights of way, and/or the Common
45 Beach (the “Beach”), shown on the Beach-Wood Plans listed above;

46 Any additional parcels or lots designated as common areas by the district in the future.;

47 and excluding from the above-described are the following deeds, and including the heirs,
48 successors and assigns of these parcels:

49 (i) any lots shown on the plan of land entitled “ ‘Brookside’ Definitive Subdivision
50 Plan of R.J. McDonald in Stockbridge, Massachusetts, February 1987 Scale 1” = 50’, Kelly
51 Granger Parsons & Associates, Inc., Great Barrington, Mass.” recorded with the same Registry
52 in Drawer O, Plan #177 and any lots subsequently created in the same location, including, but

53 not limited to, lots shown on the plan entitled “Plan of Land Surveyed for R.J. and Brigitte D.
54 McDonald in Stockbridge, Massachusetts January -1989, Scale 1” = 80’, Kelly Granger Parsons
55 & Associates, Inc., Great Barrington, Mass., recorded with the same Registry in Plat B, #257 and
56 “Plan of Land Surveyed for R.J. and Brigitte D. McDonald in Stockbridge, Massachusetts June -
57 1989, Scale 1” = 100’, Kelly Granger Parsons & Associates, Inc., Great Barrington, Mass.,
58 recorded with the same Registry in Plat B, #307;

59 (ii) property with an address of No. 3 Mahkeenac Rd, set forth in a deed from David
60 Shapiro to Bertrand Pogrebin and Letty Pogrebin recorded with the same Registry in Book 4756,
61 Page 144 on May 23, 2011;

62 (iii) property with an address of No. 5 Interlaken Cross Rd, and including 1 and 3
63 Penny Royal Lane, set forth in a deed from Richard Gerszberg, Trustee of the C&R Nominee
64 Realty Trust to Richard Gerszberg and Caren Osten Gerszberg, recorded with the same Registry
65 in Book 5584, Page 281 on July 9, 2015;

66 (iv) property with an address of 15 Interlaken Cross Road, which consists of Lot 117
67 shown on Beachwood Plan No. 8, together with Lots 117A, 116A, 116B and 116B, as set forth
68 in a deed to Henry Nunberg, recorded with the same Registry in Book 6463, Page 186 on Aug.
69 27, 2019; provided that if this property is subdivided so that any separate parcel uses the Roads
70 within the Beachwood Lenstock subdivision for access, such parcel or parcels shall be included
71 in the District in the manner set forth in Section 13;

72 (i) (v) property with an address of 9 Interlaken Cross Road, which consists of
73 other land formerly of Ruth E. Parker shown on a plan entitled “Plan of Land Surveyed for
74 Thomas P. Schuler and Christine L. Schuler, Stockbridge, Massachusetts dated October 11,

75 2011, 1" = 60', by SK Design Group, Inc." recorded in the same Registry in Plat J, No. 83 as set
76 forth in a deed to Christine L. Harrigan, recorded in the same Registry in Book 4826, Page 266
77 on Aug. 27, 2019; provided that if this property is subdivided so that any separate parcel uses the
78 Roads within the Beachwood Lenstock subdivision for access, such parcel or parcels shall be
79 included in the District in the manner set forth in Section 13.

80 SECTION 2. (A) Membership in the district shall consist of the record owner, hereinafter
81 referred to as the "proprietor," from time to time of one or more buildable lots lying within the
82 district. For the purposes of this act, a proprietor shall be deemed to include not only natural
83 persons, but also other entities empowered to own real estate in the commonwealth including
84 corporations, partnerships, realty trusts and federal, state and local governmental units. Further,
85 any mortgagee of record in possession of any one or more lots shall be deemed a proprietor
86 under this act. Persons or entities who jointly own a lot within the district shall collectively
87 constitute a proprietor of that lot for all purposes hereunder.

88 (B) As used herein, "lot" shall mean each separate building lot as shown on the Plans
89 and enumerated in paragraph (2) of subsection (A) of section 1; provided, however, that if one or
90 more lots have heretofore been combined to constitute a single building lot as set forth in
91 paragraph (1) of subsection (A) of section 5, then the lots so combined will constitute a single
92 lot.

93 SECTION 3. (A) The district, upon establishment in the manner hereafter set forth, shall
94 have the following powers:

95 (1) To upgrade, repair, replace, reconstruct and maintain, including snow and ice
96 removal, the streets, ways, and rights of way, within the district, or such portions thereof, as the
97 district shall determine in accordance with this act, exclusive of any public way;

98 (2) To upgrade, repair, manage, and maintain all common lands and recreational
99 facilities located within the district, including the Beach and the Grove, and the area of the
100 Stockbridge Bowl that extends from the Beach (the “Swimming Area”), or such portions thereof,
101 as the district shall determine in accordance with this act;

102 (3) To own, manage and enforce all easement rights and restrictive covenants now
103 held by the Beachwood/Lenstock Association, Incorporated;

104 (4) To facilitate community education and involvement, including by sponsoring and
105 holding seminars, gatherings, and functions;

106 (5) To make and enter into all manner of contracts and agreements necessary or
107 incidental to the exercise of any power permitted to the district by this act, including but not
108 limited to, contracts for legal and engineering services;

109 (6) To adopt an annual budget and to raise and appropriate funds in amounts
110 necessary to carry out the purposes for which the district is formed;

111 (7) To acquire, dispose of and encumber real and personal property for the purposes
112 of the district;

113 (8) To construct, acquire by lease or purchase, improve, maintain and operate such
114 equipment and facilities and such other equipment, materials, supplies, facilities and services as
115 shall be required to accomplish the purposes of this act, to the same extent and subject to the

116 same limitations as shall apply to towns in the commonwealth from time to time under the
117 General Laws;

118 (9) To apply for, accept and expend financial assistance from the federal government,
119 the commonwealth, Berkshire county and the town of Stockbridge either directly or jointly with
120 and through said town, for or in aid of the purposes of this district;

121 (10) To apply for, receive and expend funds from charitable foundations or other
122 private entities and individuals in the form of grants, gifts, loans and advances, for or in aid of
123 the purposes of this district;

124 (11) To employ such persons including advisors, consultants, and experts, as may be
125 deemed necessary, in its judgment, in carrying out the purposes of the district, and to fix their
126 compensation;

127 (12) To adopt by-laws for the regulation of its affairs and the conduct of its business,
128 which by- laws shall be consistent with the powers conferred by this act and with other
129 applicable provisions of the General Laws;

130 (13) To reimburse the town of Stockbridge, the proprietors, and the
131 Beachwood/Lenstock Community Association, Incorporated. for the costs of establishing the
132 district, including, but not limited to, monies advanced or expended for legal and legal related
133 expenses for the formation of the district, which expenditures were made or incurred prior to the
134 effective date of this act and the formation of the district pursuant hereto;

135 (14) To borrow at the first or any subsequent meeting of the district for the purpose of
136 meeting preliminary or current expenses such sums as may be necessary, including using

137 commercial lenders, and to issue therefore general obligation temporary notes for a period of not
138 more than two years, provided that such notes shall be issued only in anticipation of assessments
139 and other revenues of the district of the fiscal year in which such notes are issued or in
140 anticipation of money to be received from the sale of longer term bonds or notes for such
141 purposes as are otherwise hereafter permitted in this act;

142 (15) To sue and be sued in its own name and to plead and be impleaded; provided,
143 however, that neither the district nor any officer or employee thereof shall be liable in tort except
144 pursuant to the provisions of chapter 258 of the General Laws and provided that the district may
145 indemnify its officers and employees to the extent provided in said chapter 258;

146 (16) To invest any funds not required for the immediate use of the district in such
147 manner and to the extent permitted under the General Laws for the investment of such funds by
148 the treasurer of a town;

149 (17) To procure insurance against any loss or liability which may be sustained or
150 incurred in the carrying out of the purposes of this act in such amount as the district shall deem
151 necessary and appropriate and with one or more insurers who shall be licensed to furnish such
152 insurance in the commonwealth; and

153 (18) To perform generally all acts which are necessary or convenient to implement the
154 powers which are expressly or by necessary implication conferred upon the district by this act
155 and which are not otherwise prohibited under any provision of the General Laws.

156 SECTION 4. (A) Within 6 months after the effective date of this act, the selectmen of the
157 town of Stockbridge shall call a meeting of the proprietors of the lands to be included in the
158 district as set forth under section 1. For the purposes of establishing an initial list of proprietors,

159 the selectmen shall consult with the board of assessors and such board shall furnish to the
160 selectmen a listing of all record property owners as of January first in the year of enactment who
161 are owners of one or more lots or who within the reasonable knowledge or belief of the assessors
162 are owners of 1 or more lots as set forth in section 1. The selectmen, upon receiving such lists,
163 shall prepare and mail by certified mail a notice to each such proprietor signed by the selectmen
164 and setting forth a time and place of a meeting to occur within 45 days but not less than 30 days
165 from the date of mailing of said notice. The costs of mailing any notice required to be given
166 under this act shall be paid by the district. The notice shall be in the form of a warrant specifying
167 the matters upon which action is to be taken at the meeting and shall further clearly state that the
168 purpose of the meeting is to consider the organization of the district. The selectmen shall further,
169 not later than 30 days prior to the date of such meeting, cause a copy of the notice to be posted in
170 one or more publicly accessible locations within the town of Stockbridge and within the
171 subdivision known as Beachwood/Lenstock. The meeting shall be held at the town hall in the
172 town of Stockbridge. At the first meeting of the district, one selectman from the town of
173 Stockbridge shall initially preside and shall call the meeting to order.

174 (B) Said selectman shall thereupon determine whether or not the proprietors
175 representing a majority of the lots entitled to vote as defined in section 5 are present or
176 represented by proxies duly executed and placed in the hands of other proprietors prior to said
177 meeting. Any original consent to special legislation for the formation of the
178 Beachwood/Lenstock maintenance district, or copy thereof, signed by a proprietor in anticipation
179 of the formation of the district shall be accepted by the selectman presiding as a valid proxy for
180 the purpose of meeting the quorum requirements and for the purpose of voting for the formation
181 of the district, as well as any other matters voted upon at such meeting. Lacking such a majority,

182 the meeting shall have no power to act, but the selectmen may continue the meeting to a date,
183 time and place certain, for the same purpose, within a further 45-day period.

184 (C) If a quorum has been determined to be present in the manner above specified, the
185 meeting shall proceed to the following order of business:

186 (1) Election of a temporary clerk, who shall be sworn by one of the selectmen
187 present, and a moderator who shall thereupon preside;

188 (2) The taking of a vote to determine whether or not the district authorized by this act
189 shall be established and organized, which vote shall require an affirmative vote of two-thirds of
190 the proprietors present and voting in person or by proxy, entitled to vote, as defined in section 5.
191 If such vote shall be in the negative, the meeting shall thereupon adjourn. If such vote shall be in
192 the affirmative and upon the required two-thirds majority, the meeting shall next proceed to
193 consider the order of business set forth in clauses (3) to (6), inclusive, all to be effective as of the
194 date of such vote.

195 (3) The adoption of district by-laws and a form of district seal;

196 (4) The election by ballot of a district clerk, and a district treasurer, who may be the
197 same person, to hold office for one year until the next succeeding annual meeting and at each
198 annual meeting after the first a clerk and treasurer shall be elected by ballot for 1 year. There
199 shall also be elected by ballot 9 members of the prudential committee, constituted in its entirety
200 as hereafter set forth, said 9 members to hold office, 3 for 3 years, 3 for 2 years, and 3 for 1 year
201 until the next succeeding annual meeting. At each annual meeting after the first, replacement
202 members of the prudential committee shall be elected by ballot for 3 years. At any district
203 meeting after the initial meeting, the number of members of the prudential committee may be

204 increased to a maximum of 11 or decreased to a minimum of 7 by affirmative vote of the
205 proprietors of the district. The aforesaid officers of the district shall hold office until their
206 successors are elected and qualified. Persons eligible for nomination and election to the
207 prudential committee shall be at least 18 years of age and shall include persons entitled to vote as
208 proprietors or as representatives of proprietors at district meetings. If so elected or appointed, an
209 individual may serve contemporaneously as a district officer and a member of the prudential
210 committee;

211 (5) The adoption of an initial budget for the remainder of the fiscal year and the
212 appropriation of monies to be raised by assessment upon the proprietors in support thereof; and

213 (6) The consideration of such other business as shall be consistent with the power and
214 authority conferred by this act.

215 The district clerk shall retain all proxy votes cast at the initial meeting, together with the
216 minutes of the meeting and as part of the permanent record of the district. The clerk shall further
217 prepare a certificate of the vote taken to organize the district and shall affix the form of seal
218 thereto as adopted by the initial district meeting and shall obtain the endorsement of the
219 selectman initially presiding at the meeting thereon. Such certificate shall be forwarded to the
220 attorney general within 30 days after the adjournment of the meeting.

221 SECTION 5. (A) At the initial district meeting, at all subsequent annual and special
222 district meetings, voting by proprietors shall be governed by this section.

223 (1) Persons or entities owning one or more lots within the district shall be entitled to
224 cast one vote for each lot owned by such persons or entities, on any matter or issue to be voted

225 upon at any such meeting, exclusive of lots designated as common areas and recreational
226 facilities.

227 (2) Joint owners of a lot, and proprietors which are not natural persons, shall
228 designate in writing to the clerk, prior to the commencement of the meeting, the person
229 authorized to vote on behalf of the proprietor of such lot at such meeting and such person shall
230 be conclusively presumed as qualified and authorized to represent the proprietor. A person
231 owning 1 or more lots together with his or her spouse shall not be required to furnish a written
232 designation from his or her spouse and either shall be presumed to be qualified to vote.

233 (3) The authority of a person to cast a proxy vote on behalf of a proprietor shall
234 likewise be determined by the clerk, except that at the initial meeting, such determination shall
235 be made by the selectman presiding thereat. At the initial meeting, the consent or opposition to
236 special legislation for the formation of the Beachwood/Lenstock maintenance district duly
237 executed by the respective lot owners in anticipation of the formation of the district shall be
238 accepted by the selectman presiding as a valid proxy for the purpose of meeting the quorum
239 requirements and for the purpose of voting for the formation of, or opposition to, the district, as
240 well as any other matters voted upon at such meeting. At any annual or special meetings, all
241 proxies must be tendered in writing prior to the commencement of such meeting and shall clearly
242 set forth the name and address of the proprietor submitting the proxy, the name and address of
243 the person who is to exercise the proxy, the signature of the proprietor submitting the proxy and
244 the date of execution. The district, may,, adopt in its by-laws an approved form of proxy to
245 satisfy the requirements of this section. The duration of a proxy shall be as established by district
246 by-law.

247 (4) Any matter to be voted upon at the initial district meeting or at any annual or
248 special meeting of the district shall require only a majority of those proprietors representing lots
249 entitled to be voted as set forth in paragraph (1) of subsection (A), present in person or by proxy
250 and voting on the question, except for the following actions which shall require a two-thirds vote
251 of those proprietors: whether or not the district authorized by this act shall be established and
252 organized; a vote to petition for dissolution of the district; a vote to purchase or otherwise
253 acquire real property; a vote to finance any undertaking which is authorized by the act to be
254 financed in whole or in part by the issuance by the district of long term notes or bonds; and a
255 vote to

256

257 establish or change the method or means of assessing upon the proprietors their share of
258 district expenses.

259 (5) As long as the prudential committee consists of 9 members, at least 5 members of
260 the prudential committee present at the meeting shall be required to constitute a quorum. If the
261 number of members of the prudential committee are altered, then the quorum shall be established
262 which shall not be less than a majority of the committee members. All actions permitted to be
263 taken by the prudential committee shall require a majority vote of the committee members. .

264 SECTION 6. (A) (1) Annual meetings of the district shall be held on the first Saturday
265 after July 4 each year, provided that when July 4 falls on a Saturday, the annual meeting shall be
266 held on the following Saturday; or at such other date as the district shall establish from time to
267 time in its bylaws, but in no event shall such annual meeting occur more than 60 days after the
268 date set by the town of Stockbridge for its annual town meeting.

269 (2) Annual and other special meetings of the district shall be called by warrant of the
270 prudential committee, notice of which shall be given 14 days at least before such meeting. The
271 warrant shall be mailed first class, postage pre-paid to each proprietor of record in the district
272 and a copy of same shall be directed to a constable of the town of Stockbridge or to some other
273 person who shall cause a copy of said notice to be posted in one or more public places within the
274 town of Stockbridge or by advertising in a newspaper published at least weekly within Berkshire
275 county and having a general circulation within the town of Stockbridge.

276 (3) The warrant for all district meetings shall state the time and place of the meeting
277 and the subjects to be acted upon. The prudential committee shall insert in the warrant of the
278 annual meeting all subjects, the insertion of which shall be requested of them in writing by ten or
279 more proprietors of the district, and in the warrant for every special district meeting all subjects
280 the insertion of which shall be requested of them in writing by 20 or more proprietors.

281 (4) The prudential committee may call a special district meeting in its discretion and
282 it shall call a special meeting upon request in writing of not less than 20 proprietors or
283 proprietors representing at least 20 percent of the lots entitled to be voted as set forth in
284 paragraph (1) of subsection (A) of section 5. Special meetings so requested shall be held not later
285 than 45 days after the receipt of such request.

286 (5) No action taken at the annual or any special district meeting shall be valid unless
287 the subject matter thereof shall have been set forth in the warrant for such meeting. Two or more
288 district meetings for distinct purposes may be called for by the same warrant. A moderator shall
289 be chosen by ballot at the district meeting for a two year term and shall have the powers of the
290 moderator of a town meeting.

291 (6) District meetings shall be governed by chapter 39 of the General Laws except as
292 otherwise expressly provided in this act.

293 (7) The board of assessors of the town of Stockbridge shall, not less than 30 days
294 prior to the annual district meeting, prepare and forward to the prudential committee a true and
295 complete alphabetical listing with addresses of the proprietors reflected in their records as of
296 January first of that year and from the records maintained by the assessors pursuant to chapter 59
297 of the General Laws and other related provisions. A copy of such list shall be maintained in a
298 manner accessible to the proprietors and the general public at all reasonable times by the
299 prudential committee or the district clerk and shall further be available for inspection at the
300 annual meeting and any special meeting of the district. The board of assessors shall likewise
301 maintain a list of

302
303 proprietors within their town by separate list or special designation on their list of all
304 assessed parcels.

305 (8) Quorum requirements for annual meetings and special meetings of the district
306 shall be as specified for the initial district meeting set forth above or otherwise as the district
307 shall determine from time to time in its by-laws; provided, however, that the quorum
308 requirements at such meeting will not be reduced below 20 percent of the proprietors, whether
309 voting in person or by proxy.

310 SECTION 7. (A) The prudential committee shall have and shall exercise the following
311 powers and duties:

312 (1) The expenditure, for the purposes permitted to the district, of the money raised
313 and borrowed by the district;

314 (2) The preparation of an annual budget for the management and operation of the
315 district and the submission of such budget to the annual district meeting for its approval. Such
316 annual budget shall include the committee's estimate of those monies required to be raised and
317 appropriated by assessment upon the district proprietors by borrowing, or otherwise;

318 (3) To apply in the name of the district for grants, loans, and other assistance from
319 both governmental and nongovernmental entities, for or in aid of the purposes of this district;

320 (4) Subject to prior appropriation therefor, to enter into agreements and contracts
321 involving the purchase or lease of services, equipment and supplies consistent with the powers
322 granted by this act; and

323 (5) Subject to prior appropriation therefore, to hire, supervise, suspend and discharge
324 such employees as the committee shall deem necessary or appropriate for the conduct of the
325 work to be performed by the district including, but not limited to, a district superintendent who
326 shall have charge on a day to day basis of all district employees and who shall be responsible to
327 the prudential committee for the conduct and supervision of any and all work to be performed by
328 or on behalf of the district pursuant to this act. Compensation and benefits for the district
329 superintendent and all other employees shall, subject to prior appropriation therefor, be as
330 determined from time to time by vote of the prudential committee;

331 (B) The prudential committee shall meet as necessary, but at least every 6 months. A
332 quorum of the prudential committee shall be required at all meetings, in person or by telephone,
333 for the conduct of any business thereat and shall consist of a majority of the members. The initial

334 meeting of the prudential committee shall occur not later than 30 days following the
335 establishment of the district. Thereafter, the committee shall schedule one meeting to occur in
336 each year immediately following the adjournment of the annual district meeting. At such initial
337 meeting and at all subsequent meetings following the annual district meeting, the committee
338 shall elect from its members a chairman who shall preside at all committee meetings and who
339 shall serve until his or her successor shall be elected at the meeting following the annual district
340 meeting. The committee shall also elect a vice-chairman who shall be empowered to preside over
341 committee meetings in the absence of the chairman and who shall serve for a like term, and elect
342 such other officers as it shall determine necessary to fulfill its duties. The district, may, subject to
343 a prior appropriation therefor, provide appropriate compensation for district officers including
344 members of the prudential committee and including the expense of travel, meals and lodging for
345 such officers and committee members residing outside the district.

346 (C) Without limiting its powers as set forth above in this act, the prudential committee
347 shall have charge of expenditures on account of the district duly budgeted and appropriated
348 pursuant to the

349
350 powers granted to the district and shall exercise the authority conferred upon it by district
351 by- law, except as otherwise expressly provided in this act.

352 (D) (1) The district treasurer shall receive and take charge of all money belonging to
353 the district, and pay over and account for the same according to the order of the district or of its
354 prudential committee. No other persons shall pay any district bill, but this provision shall not
355 prohibit the treasurer from paying such bill by the use of a bank treasurer's or cashier's check.

356 The district treasurer shall further have the authority given to an auditor by section 50 of chapter
357 41 of the General Laws and shall annually render a true account of his or her receipts and
358 disbursements and report of his or her official acts to the district. The district treasurer shall give
359 bond annually for the performance of his duties in a form approved by the commissioner of
360 revenue and in such sum, not less than the amount established by said commissioner, as shall be
361 fixed by the prudential committee, and, if he or she fails to give such bond within ten days after
362 his or her election or appointment, or if within ten days after the expiration of said bond or any
363 renewal of said bond, he or she fails to file a renewal thereof, the prudential committee shall
364 declare the office vacant and the vacancies shall be filled by the committee in the manner set
365 forth in subsection (E).

366 (2) The district clerk shall, in addition to the other duties specified herein, take all
367 minutes at district meetings and at meetings of the prudential committee and maintain a record of
368 such minutes in a manner provided for the maintenance of records of minutes of town meetings
369 and of meetings by the board of selectmen in the commonwealth. The clerk shall further be the
370 official responsible for certifying copies of any and all votes taken at a district meeting or a
371 meeting of the prudential committee.

372 (E) Any vacancy occurring in the office of clerk, treasurer or member of the
373 prudential committee elected by the district may be filled by the district for the remainder of the
374 unexpired term at any special meeting called for that purpose. The prudential committee may
375 appoint a person to fill said vacancy until an election can be held or the disability is removed.
376 Said election need not be held earlier than the next annual meeting. Such temporary appointee
377 shall be sworn and shall perform the duties of the office to which he or she is appointed during

378 his or her tenure thereof. A temporary treasurer appointed to fill a vacancy, as above provided,
379 shall give bond in the same manner as the treasurer.

380 SECTION 8. (A)(1) At its initial meeting, and at the annual meeting each year thereafter,
381 the prudential committee shall submit an annual budget for the management and operation of the
382 district to the proprietors for approval by a majority vote. Furthermore, the proprietors shall vote
383 on a method to be employed during the fiscal year to which the meeting relates for financing the
384 share of its annual budget which is anticipated to be required to be funded by the district. The
385 district may vote to adopt any of the following methods of financing, or combination thereof:

386 (i) The district may raise, by assessments upon the proprietors and by accepting
387 voluntary contributions, the total sum required to meet such estimated expense;

388 (ii) The district may pay the whole of such expense from time to time as the work,
389 material, labor and services shall be performed and for this purpose may incur debt by a
390 temporary loan in anticipation of the collection of assessments from the district members during
391 the fiscal year in which said debt is incurred or during the next succeeding fiscal year; and

392 (iii) At such district meeting or at a special meeting called for the purpose, the district
393 may incur debt to the amount necessary to pay that portion of such expense which relates solely
394 to proposed long term district improvements or major equipment purchases and may issue
395 therefor notes or

396

397 bonds, and may, if the district further so approves, issue notes or bonds on the condition
398 that the first payment on account of the principal shall be deferred for a period of not more than

399 five years from the date of issue of such notes or bonds and that the whole amount of such debt
400 shall be payable within a period of not more than 25 years after such notes or bonds are issued.
401 No such issue shall be for a term longer than the reasonably estimated useful life of the
402 improvements, facilities and equipment to be so funded.

403 (2) Indebtedness incurred by the district under the provision of this subsection shall
404 be subject to chapter 44 of the General Laws and to other provisions of the General Laws
405 applicable to notes and bonds of districts except as otherwise provided in this act. If the district
406 issues notes or bonds and thereafter it shall receive an appropriation from another governmental
407 entity to cover all or any part of the expenses of such improvements, the district, in its discretion,
408 unless otherwise mandated by the terms and conditions of the grant from such governmental
409 unit, may make all or any part of such appropriation available to redeem notes or bonds of the
410 district and shall hold the balance, if any, to the credit of the district to be used for the payment
411 of the expense of such improvements, facilities and equipment. Bonds or notes issued under this
412 section shall be the general obligations of the district.

413 (3) That portion, if any, of the budgeted expense for the initial fiscal year and for
414 each subsequent fiscal year which shall be required by the district for the payment of principal
415 and interest on bonds and notes issued or to be issued by the district and which will become due
416 during the ensuing fiscal year together with those amounts necessary to be raised by the district
417 to maintain and operate the district during said fiscal year for capital outlay items, the costs of
418 which are not otherwise funded, and all other budgeted expenses for which the district is
419 authorized to raise money, the costs of which items the district shall be raised by assessment
420 upon the lots owned by the proprietors within the district. Each lot within the district shall be
421 assessed an equal share of the portion of the budget to be funded by assessment, except that the

422 lots designated as the Beach and the Grove, and any properties or interest in property owned by
423 the district, shall not be subject to assessment.

424 (4) Following the adjournment of the initial district meeting and each annual district
425 meeting thereafter, the clerk of the district shall certify to the assessors of the town of
426 Stockbridge all sums of money voted to be raised by district assessment, which vote will have
427 been adopted by a majority vote as provided above in this act, together with the amount to be
428 paid by each proprietor according to the determination made by such votes. The assessors of the
429 town of Stockbridge shall without further vote, assess such amounts upon the lands of the
430 proprietors within the district and commit the same to the collector of taxes of the town of
431 Stockbridge, who thereupon shall have and exercise the same powers and duties in relation to the
432 collection of such assessments as he has and exercises relative to the collection of town taxes.
433 The billing of such assessments shall be done semi-annually, contemporaneously with the billing
434 of the real estate taxes in each fiscal year by the town. The collector shall remit weekly to the
435 district treasurer all sums collected by him on account of such assessments. An assessment made
436 hereunder shall be a lien upon the land assessed therefor, in the same manner as a lien for real
437 estate taxes assessed by the town under the provisions of section 37 of chapter 60 of the General
438 Laws, and other related provisions of the General Laws.

439 (5) Tax assessments on lots which are owned by the Beachwood/Lenstock
440 Community Association, Incorporated and which are subject to assessment for town taxes, shall
441 be deferred until such time as such lot is sold or otherwise conveyed by Beachwood/Lenstock
442 Community Association, Inc. The proceeds from the sale of such lot shall be applied first to any
443 due and unpaid real estate taxes with respect to such lot, if any, and then to uncollected district
444 assessments on the lot, in each case together with any interest or other charges due thereon.

445 SECTION 9. The fiscal year of the district shall be the same fiscal year as established by
446 the General Laws for cities and towns in the commonwealth. The district's first fiscal year shall
447 commence upon creation of the district and end the date that the fiscal year used by the town of
448 Stockbridge ends.

449 SECTION 10. The district shall include in its initial and all subsequent annual
450 appropriations, compensation for the board of assessors and the tax collector of the town of
451 Stockbridge, pursuant to the provisions of section 108B of chapter 41 of the General Laws, for to
452 their duties and expenses hereunder.

453 SECTION 11. Neither the town of Stockbridge nor any agency or department of the
454 commonwealth shall be obligated for any debts of the district, nor shall they by virtue of this act
455 be required to pay for any liability, obligation or expense made, suffered or incurred by the
456 district. The proprietors of the district shall not be individually liable or obligated with respect to
457 debts or other obligations made, suffered or incurred by the district except with respect to the
458 payment of assessments upon their land as provided for in this act.

459 If the prudential committee votes to approve an alternate assessment procedure, it may
460 hire its own assessors and collector. If so approved, the district assessors, and collector shall have
461 the same powers and duties relative to the assessment, liens and collection and abatement or
462 granting of exemptions relative to money voted by the district as the assessors and collectors of
463 the Town of Stockbridge have and exercise relative to the assessment, liens and collection and
464 abatement and granting of exemptions relative to town taxes.

465 SECTION 12. The district shall establish in its initial budget and in all subsequent fiscal
466 year budgets an overlay account and a reserve fund as provided for towns under the provisions of

467 section 25 of chapter 59 of the General Laws and section 5C of chapter 40 of the General Laws.
468 Except for the initial fiscal year, or portion thereof, of the operation of the district, the district
469 may add to the amount to be raised by district assessment a sum voted by the district for not
470 more than 20 per cent thereof for the purposes of and subject to the limitations as set forth in said
471 section 25 of said chapter 59. The district is further authorized to establish and maintain a
472 stabilization fund under the provisions of section 5B of said chapter 40. The district shall further
473 be subject to an audit of its accounts when required by the prudential committee in the manner
474 provided in section 40 of chapter 44 of the General Laws.

475 SECTION 13. Immediately upon the formation of the district, the district clerk, shall, in
476 addition to the other duties to be performed by such district officer, cause a review to be made at
477 that time and from time to time thereafter of the records required to be maintained by the board
478 of assessors for the town of Stockbridge, including copies of deeds furnished to said board by the
479 Berkshire middle district registry of deeds, and shall otherwise take such actions as shall be
480 reasonably necessary to verify the list of proprietors to be included within the district. The clerk
481 shall further cause to be prepared one or more maps based in whole or in part upon the maps
482 required to be maintained by the assessors of the town of Stockbridge on which shall be shown
483 the location of all proprietors' lands initially included as well as those which upon such review
484 should, in the opinion of the district clerk, be included within the district. Thereafter, at any
485 special meeting called for that purpose and not later than the next annual meeting, the district
486 clerk shall furnish the prudential committee with a list of proprietors proposed for inclusion in
487 the district and such maps depicting the approximate location and boundaries of such parcels as
488 well as the existing parcels within the district. The committee shall furnish written notice in the
489 manner provided for furnishing notice to a proprietor of a district meeting to the record owners

490 of such parcels proposed for inclusion in the district. At the district meeting called for such
491 purpose, the district shall, by its vote, determine whether or not its parcel or parcels shall be
492 included within the district and shall furnish the record owners thereof with full opportunity to be
493 heard prior to such vote as though such persons were proprietors of record, entitled to vote
494 thereon.

495 SECTION 14. Once established pursuant to this act, the district shall not dissolve without
496 specific authorization by the general court, which shall not be given until provision has been
497 made for the payment of the obligations of said district. Such dissolution may be initiated by the
498 general court, by two-thirds vote at a regular or special district meeting, or by petition by the
499 town of Stockbridge under the provisions of section 8 of Article 89 of the Amendments to the
500 Constitution of the Commonwealth.

501 SECTION 15. Section 3 shall take effect on the date of the affirmative vote as provided
502 for in paragraph 2 of subsection C of Section 4. The remainder of this act shall take effect upon
503 its passage.

504 SECTION 16. If the initial meeting of the Beachwood/Lenstock Maintenance District
505 shall not occur and the certified vote evidencing the establishment of the district shall not be filed
506 with the attorney general within one year after its passage, this act shall cease to be operative.