

Open Meeting & Voting

33-1248. Open meetings; exceptions

A. Notwithstanding any provision in the declaration, bylaws or other documents to the contrary, all meetings of the unit owners' association and the board of directors, and any ~~regularly scheduled~~ committee meetings **ADDRESSING COMMUNITY BUSINESS**, are open to all members of the association or any person designated by a member in writing as the member's representative and all members or designated representatives so desiring shall be permitted to attend and speak at an appropriate time during the deliberations and proceedings. **COMMITTEES OF THE BOARD THAT ARE CREATED TO ADDRESS COMMUNITY ACTIVITIES SUCH AS BUT NOT LIMITED TO SOCIAL, RECREATIONAL OR DECORATING COMMITTEES ARE EXEMPT FROM THE REQUIREMENTS OF THIS SECTION.** The board **OR COMMITTEE** may place reasonable time restrictions on those persons speaking during the meeting but shall permit a member or a member's designated representative to speak once after the board **OR COMMITTEE** has discussed a specific agenda item but before the board **OR COMMITTEE** takes formal action on that item in addition to any other opportunities to speak. The board **OR COMMITTEE** shall provide for a reasonable number of persons to speak on each side of an issue. Persons attending may audiotape or videotape those portions of the meetings of the board of directors and meetings of the members that are open. The board of directors of the association **OR COMMITTEE** shall not require advance notice of the audiotaping or videotaping and may adopt reasonable rules governing the audiotaping or videotaping of open portions of the meetings of the board, **COMMITTEES OF THE BOARD** and the membership, but such rules shall not preclude such audiotaping or videotaping by those attending, unless the board **OR COMMITTEE** audiotapes or videotapes the meeting and makes the unedited audiotapes or videotapes available to members on request without restrictions on its use as evidence in any dispute resolution process. Any portion of a meeting may be closed only if that portion of the meeting is limited to consideration of one or more of the following:

1. Legal advice from an attorney for the board or the association. On final resolution of any matter for which the board received legal advice or that concerned pending or contemplated litigation, the board may disclose information about that matter in an open meeting except for matters that are required to remain confidential by the terms of a settlement agreement or judgment.

2. Pending or contemplated litigation.

3. Personal, health or financial information about an individual **UNIT OWNER**~~member~~ of the association, an individual employee of the association or an individual employee of a contractor for the association, including records of the association directly related to the personal, health or financial information about an individual **UNIT OWNER**~~member~~ of the association, an individual employee of the association or an individual employee of a contractor for the association. **ENFORCEMENT OR DISCUSSION OF VIOLATIONS OF CONDOMINIUM DOCUMENTS IS NOT PERSONAL INFORMATION UNDER THIS EXCEPTION.**

4. Matters relating to the job performance of, compensation of, health records of or specific complaints against an individual employee of the association or an individual employee of a contractor of the association who works under the direction of the association.

5. Discussion of a unit owner's appeal of any violation cited or penalty imposed by the association except on request of the affected unit owner that the meeting be held in an open session.

B. NOTWITHSTANDING THE PROVISIONS OF SECTION 10-3704, 10-3708 OR 10-3821 OR ANY PROVISIONS IN THE CONDOMINIUM DOCUMENTS TO THE CONTRARY, ALL ACTIONS TAKEN BY THE BOARD OF DIRECTORS, BUSINESS COMMITTEES OF THE BOARD OF DIRECTORS, OR UNIT OWNERS OF THE ASSOCIATION MUST BE TAKEN AT A MEETING CONDUCTED IN ACCORDANCE WITH THIS CHAPTER.

CB. Notwithstanding any provision in the condominium documents, all meetings of the unit owners' association and the board **OR COMMITTEES OF THE BOARD** shall be held in this state. A meeting of the unit owners' association shall be held at least once each year **TO ELECT DIRECTORS AND CONDUCT ANY OTHER BUSINESS OF THE UNIT OWNERS.** Special meetings of the unit owners' association may be called by the president, by a majority of the board of directors or by unit owners having at least twenty-five percent or any lower percentage specified in the bylaws, of the votes in the association. Not fewer than ten nor more than fifty days in advance of any meeting of the unit owners, the secretary shall cause notice to be hand delivered or sent prepaid by United States mail to the mailing address of **RECORD FOR** each unit **OWNER**~~or to any other mailing address designated in writing by the unit owner~~. The notice of any meeting of the unit owners shall state the date, time and place of the meeting. The notice of any annual, regular or special meeting of the unit owners shall also state the purpose for which the meeting is called, including the **NUMBER OF BOARD OF DIRECTOR POSITIONS TO BE FILLED**, **THE** general nature of any proposed amendment to the declaration or bylaws, any changes in assessments that require approval of the unit owners and any proposal to remove a director or officer. **ANY NOTICE FOR A MEETING OF UNIT OWNERS TO PROPOSE ACTION OTHER THAN THE ELECTION OF DIRECTORS SHALL PROVIDE FOR AN OPPORTUNITY FOR EITHER THE BOARD OF DIRECTORS OR ANY UNIT OWNER OR GROUP OF UNIT OWNERS TO SUBMIT ARGUMENTS FOR OR AGAINST THE PROPOSED ACTION FOR DISTRIBUTION BY THE ASSOCIATION TO ALL UNIT OWNERS, OR POSTING ON THE ASSOCIATION'S WEB SITE, A MAXIMUM OF TWENTY DAYS FROM THE DATE THE MEETING NOTICE WAS ISSUED, BUT AT LEAST FIVE BUSINESS DAYS PRIOR TO THE MEETING DATE.** The failure of any unit owner to receive actual notice of a meeting of the unit owners does not affect the validity of any action taken at that meeting.

DC. Before entering into any closed portion of a meeting of the board of directors, or on notice of a meeting under subsection **ED** of this section that will be closed, the board shall identify the paragraph under subsection A of this section that authorizes the board to close the **SPECIFIC SUBJECT MATTER OF THIS** meeting.

ED. Notwithstanding any provision in the declaration, bylaws or other condominium documents, for meetings of the board of directors **AND COMMITTEES OF THE BOARD** ~~that are held after the termination of declarant control of the association~~, notice to unit owners of meetings of the board of directors **OR COMMITTEES OF THE BOARD ALONG WITH ANY OPEN MEETING AGENDA** shall be given at least forty-eight hours in advance of the meeting by newsletter, conspicuous posting or any other reasonable means as determined by the board of directors. An affidavit of notice by an officer of the association is prima facie evidence that notice was given as prescribed by this section. Notice to unit owners of meetings of the board of directors **OR COMMITTEES OF THE BOARD** is not required if emergency circumstances require action by the board **OR COMMITTEE** before notice can be given. Any notice of a board **OR COMMITTEE** meeting shall state the date, time and place of the meeting. The failure of any unit owner to receive actual notice of a meeting of the board of directors **OR COMMITTEE OF THE BOARD** does not affect the validity of any action taken at that meeting.

FE. Notwithstanding any provision in the declaration, bylaws or other condominium documents, for meetings of the board of directors **OR COMMITTEES OF THE BOARD** ~~that are held after the termination of declarant control of the association~~, all of the following apply:

1. The agenda shall be available to all unit owners attending. **THE BOARD OR COMMITTEE MAY REVISE THE AGENDA PRIOR TO THE MEETING TO INCLUDE ANY ISSUE IDENTIFIED SUBSEQUENT TO THE POSTING OF THE ORIGINAL AGENDA. ADDITIONALLY THE BOARD OR COMMITTEE MAY DISCUSS, DELIBERATE, AND DECIDE ANY ISSUE RAISED AT THAT MEETING BY UNIT OWNERS, AT THE DISCRETION OF THE BOARD OR COMMITTEE CHAIR.**

2. An emergency meeting of the board of directors **OR COMMITTEE** may be called to discuss business or take action that cannot be delayed for the forty-eight hours required for notice. At any emergency meeting called by the board of directors **OR COMMITTEES OF THE BOARD**, the board of directors **OR COMMITTEE** may act only on emergency matters, **AND MAY BE CONDUCTED BY ANY MEANS DESIRED.** The minutes of the emergency meeting shall state the reason necessitating the emergency meeting. The minutes of the emergency meeting shall be read and approved at the next regularly scheduled meeting of the board of directors **OR COMMITTEE.**

3. A quorum of the board of directors **OR COMMITTEES OF THE BOARD OF DIRECTORS** may meet by means of a telephone conference, **OR OTHER TECHNOLOGICAL MEANS** if a speakerphone, **OR OTHER TECHNOLOGICAL MEANS** is available in the meeting room that allows board **OR COMMITTEE** members and unit owners to hear all parties who are speaking during the meeting, **AND PARTICIPATE IN THAT MEETING REMOTELY.**

4. Any quorum of the board of directors that meets informally to discuss association business, including workshops, shall comply with the open meeting and notice provisions of this section without regard to whether the board votes or takes any action on any matter at that informal meeting.

G. THE DRAFT MINUTES OF ANY OPEN OR EMERGENCY MEETING OF THE BOARD OF DIRECTORS, OR BUSINESS COMMITTEE OF THE BOARD, OR UNIT OWNERS SHALL BE MADE AVAILABLE TO ANY UNIT OWNER UPON REQUEST NO LATER THAN TEN BUSINESS DAYS AFTER THE MEETING. THE ASSOCIATION MAY POST THOSE DRAFT MINUTES AT A CONVENIENT LOCATION AT THEIR DISCRETION.

HF. It is the policy of this state as reflected in this section that all meetings of a condominium, whether meetings of the unit owners' association or meetings of the board of directors of the association, **OR COMMITTEES OF THE BOARD OF DIRECTORS**, be conducted openly and that notices and agendas be provided for those meetings that contain the information that is reasonably necessary to inform the unit owners of the matters to be discussed or decided and to ensure that unit owners have the ability to speak after discussion of agenda items, but before a vote of the board of directors or members is taken. Toward this end, any person or entity that is charged with the interpretation of these provisions, including members of the board or directors and any community manager, shall take into account this declaration of policy and shall construe any provision of this section in favor of open meetings.

IG. This section does not apply to timeshare plans or associations that are subject to chapter 20 of this title.

33-1250. Voting; proxies; absentee ballots; applicability; definition

A. If only one of the multiple owners of a unit is present at a meeting of the association, the owner is entitled to cast all the votes allocated to that unit. If more than one of the multiple owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the multiple owners unless the declaration expressly provides otherwise. There is majority agreement if any one of the multiple owners casts the votes allocated to that unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the unit.

B. During the period of declarant control, votes allocated to a unit may be cast pursuant to a proxy duly executed by a unit owner. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through a duly executed proxy. A unit owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the association. A proxy is void if it is not dated or purports to be revocable without notice. The proxy is revoked on presentation of a later dated proxy executed by the same unit owner. A proxy terminates one year after its date, unless it specifies a shorter term or unless it states that it is coupled with an interest and is irrevocable.

C. Notwithstanding any provision in the condominium documents, after termination of the period of declarant control, votes allocated to a unit may not be cast pursuant to a proxy. The association shall provide for votes to be cast

in person and by absentee ballot. ~~ABSENTEE BALLOTS MAY BE DELIVERED AND RETURNED BY ANY MEANS and, in addition, the association may provide for voting by some other form of delivery,~~ including the use of REGULAR MAIL, HAND DELIVERY, ONLINE VOTING SERVICE, e-mail OR and fax delivery, OR ANY OTHER SUITABLE MEANS. Notwithstanding ~~section 10-3708 or the~~ ANY provisions of the condominium documents, any action taken at an annual, regular or special meeting of the UNIT OWNERS members shall comply with all of the following: ~~if absentee ballots or ballots provided by some other form of delivery are used:~~

1. The ballot shall set forth each proposed action.
2. The ballot shall provide an opportunity to vote for or against each proposed action.

3. FOR BALLOTS INVOLVING THE ELECTION OF BOARD MEMBERS THE BALLOT WILL IDENTIFY THE NUMBER OF OPEN SEATS AVAILABLE TO FILL, THE NOMINATED CANDIDATES FOR THOSE POSITIONS AND A WRITE IN LINE FOR EVERY OPEN SEAT, WHERE ANY QUALIFIED, AS DEFINED IN THE BYLAWS, UNIT OWNER'S NAME MAY BE ADDED BY THE VOTING UNIT OWNER, AND WHETHER CUMULATIVE VOTING WILL BE UTILIZED, IF ALLOWED IN THE BYLAWS.

4. The ballot is valid for only one specified election or meeting of the UNIT OWNERS members and expires automatically after the completion of the election or meeting. IF A MEETING IS CONTINUED DUE TO LACK OF QUORUM OR ANY OTHER REASON, THE ABSENTEE BALLOTS SUBMITTED REMAIN VALID FOR THE CONTINUED MEETING.

5. The ABSENTEE ballot specifies the time and date by which the ballot must be delivered to the board of directors in order to be counted, which shall be at least seven days after the date that the board delivers the unvoted ballot to the UNIT OWNER member.

6. The ballot does not authorize another person to cast votes on behalf of the UNIT OWNER member. NO BALLOT SHALL BE ACCEPTED AT THE MEETING FROM ANYONE OTHER THEN THE VOTING UNIT OWNER.

7. The completed ABSENTEE ballot shall BE RETURNED WITH A SEPARATE AUTHENTICATION DOCUMENT, WHICH WILL contain the name, the address UNIT NUMBER and either the actual or electronic signature of the person voting, ~~except that if the condominium documents permit secret ballots, only the envelope shall contain the name, the address and either the actual or electronic signature of the voter.~~

8. Ballots, SEPARATE SIGNED AUTHENTICATION DOCUMENT envelopes and related materials, including sign-in sheets if used, shall be retained in electronic or paper format and made available for unit owner inspection for at least one year after completion of the election.

9. ANY UNIT OWNER DETERMINED BY THE ASSOCIATION TO BE INELIGIBLE TO VOTE FOR THAT ELECTION OR BALLOT MEASURE MUST BE NOTIFIED PRIOR TO THE MEETING AND GIVEN AN OPPORTUNITY TO CORRECT OR CONTEST THAT INELIGIBILITY PRIOR TO THE VOTE.

10. IF AN ONLINE VOTING SYSTEM IS USED FOR ABSENTEE BALLOTS, IT MUST ACCOMPLISH ALL OF THE FOLLOWING:

(A). AUTHENTICATES THE UNIT OWNERS IDENTITY.

(B) AUTHENTICATES THE VALIDITY OF EACH ELECTRONIC VOTE TO ENSURE THAT THE VOTE IS NOT ALTERED IN TRANSIT.

(C) TRANSMITS A RECEIPT TO EACH UNIT OWNER WHO CASTS AN ELECTRONIC VOTE.

(D) STORES ELECTRONIC VOTES FOR RECOUNT, INSPECTION AND REVIEW PURPOSES.

11. THE ASSOCIATION IS RESPONSIBLE TO ENSURE THE INTEGRITY OF THE VOTING PROCESS, TO PREVENT BALLOT TAMPERING, TO ENSURE A TRUE AND ACCURATE BALLOT COUNT, AND TO ENSURE THAT PRELIMINARY VOTING RESULTS ARE NOT DISCLOSED IN ANY WAY TO ANY UNIT OWNERS, INCLUDING BOARD MEMBERS THAT HAVE NOT YET VOTED.

D. Votes cast by absentee ballot ~~or other form of delivery, including the use of e-mail and fax delivery,~~ are valid for the purpose of establishing a quorum.

E. Notwithstanding subsection C of this section, an association for a timeshare plan as defined in section 32-2197 may permit votes by a proxy that is duly executed by a unit owner.

F. If the declaration requires that votes on specified matters affecting the condominium be cast by lessees rather than unit owners of leased units all of the following apply:

1. The provisions of subsections A and B of this section apply to lessees as if they were unit owners.

2. Unit owners who have leased their units to other persons shall not cast votes on those specified matters.

3. Lessees are entitled to notice of meetings, access to records and other rights respecting those matters as if they were unit owners. Unit owners shall also be given notice, in the manner prescribed in section 33-1248, of all meetings at which lessees may be entitled to vote.

G. Unless the declaration provides otherwise, votes allocated to a unit owned by the association shall not be cast.

H. This section does not apply to timeshare plans or associations that are subject to chapter 20 of this title.

I. For the purposes of this section, "period of declarant control" means the time during which the declarant or persons designated by the declarant may elect or appoint the members of the board of directors pursuant to the condominium documents. ~~by virtue of superior voting power.~~

J. IF THE ASSOCIATION IS FOUND TO HAVE VIOLATED ANY PROVISION OF THIS SECTION IN CONDUCTING ELECTIONS OR BALLOT MEASURES THE ADJUDICATING TRIBUNAL EITHER THE ADMINISTRATIVE LAW JUDGE OR A COURT OF APPROPRIATE JURISDICTION MAY INVALIDATE THE ELECTIONS OR THE BALLOT MEASURE AS DEEMED APPROPRIATE BASED ON THE SPECIFIC CIRCUMSTANCES OF THE CASE.

A. Notwithstanding any provision in the declaration, bylaws or other documents to the contrary, all meetings of the members' association and the board of directors, and any ~~regularly scheduled~~ committee meetings ADDRESSING COMMUNITY BUSINESS, are open to all members of the association or any person designated by a member in writing as the member's representative and all members or designated representatives so desiring shall be permitted to attend and speak at an appropriate time during the deliberations and proceedings. COMMITTEES OF THE BOARD THAT ARE CREATED TO ADDRESS COMMUNITY ACTIVITIES SUCH AS BUT NOT LIMITED TO SOCIAL, RECREATIONAL OR DECORATING COMMITTEES ARE EXEMPT FROM THE REQUIREMENTS OF THIS SECTION. The board OR COMMITTEE CHAIR may place reasonable time restrictions on those persons speaking during the meeting but shall permit a member or member's designated representative to speak once after the board OR COMMITTEE has discussed a specific agenda item but before the board OR COMMITTEE takes formal action on that item in addition to any other opportunities to speak. The board OR COMMITTEE shall provide for a reasonable number of persons to speak on each side of an issue. Persons attending may audiotape or videotape those portions of the meetings of the board of directors OR COMMITTEES OF THE BOARD and meetings of the members that are open. The board of directors of the association OR COMMITTEE shall not require advance notice of the audiotaping or videotaping and may adopt reasonable rules governing the audiotaping and videotaping of open portions of the meetings of the board and the membership, but such rules shall not preclude such audiotaping or videotaping by those attending, unless the board OR COMMITTEE audiotapes or videotapes the meeting and makes the unedited audiotapes or videotapes available to members on request without restrictions on its use as evidence in any dispute resolution process. Any portion of a meeting may be closed only if that closed portion of the meeting is limited to consideration of one or more of the following:

1. Legal advice from an attorney for the board or the association. On final resolution of any matter for which the board received legal advice or that concerned pending or contemplated litigation, the board may disclose information about that matter in an open meeting except for matters that are required to remain confidential by the terms of a settlement agreement or judgment.

2. Pending or contemplated litigation.

3. Personal, health or financial information about an individual member of the association, an individual employee of the association or an individual employee of a contractor for the association, including records of the association directly related to the personal, health or financial information about an individual member of the association, an individual employee of the association or an individual employee of a contractor for the association. ENFORCEMENT OR DISCUSSION OF VIOLATIONS OF COMMUNITY DOCUMENTS IS NOT PERSONAL INFORMATION UNDER THIS EXCEPTION.

4. Matters relating to the job performance of, compensation of, health records of or specific complaints against an individual employee of the association or an individual employee of a contractor of the association who works under the direction of the association.

5. Discussion of a member's appeal of any violation cited or penalty imposed by the association except on request of the affected member that the meeting be held in an open session.

B. NOTWITHSTANDING THE PROVISIONS OF SECTION 10-3704 10-3708 OR 10- 3821 OR ANY PROVISIONS IN THE COMMUNITY DOCUMENTS TO THE CONTRARY, ALL ACTIONS TAKEN BY THE BOARD OF DIRECTORS, BUSINESS COMMITTEES OF THE BOARD OF DIRECTORS, OR MEMBERS OF THE ASSOCIATION MUST BE TAKEN AT A MEETING CONDUCTED IN ACCORDANCE WITH THIS CHAPTER.

CB. Notwithstanding any provision in the community documents, all meetings of the members' association and the board shall be held in this state. A meeting of the members' association shall be held at least once each year TO ELECT DIRECTORS AND CONDUCT ANY OTHER BUSINESS OF THE MEMBERS. Special meetings of the members' association may be called by the president, by a majority of the board of directors or by members having at least twenty five percent, -or any lower percentage specified in the bylaws, of the votes in the association. Not fewer than ten nor more than fifty days in advance of any meeting of the members the secretary shall cause notice to be hand-delivered or sent prepaid by united states mail to the mailing address OF RECORD for each MEMBER ~~lot, parcel or unit owner or to any other mailing address designated in writing by a member~~. The notice shall state the date, time and place of the meeting. A notice of any annual, regular or special meeting of the members shall also state the purpose for which the meeting is called, including THE NUMBER OF BOARD OF DIRECTOR POSITIONS TO BE FILLED, the general nature of any proposed amendment to the declaration or bylaws, changes in assessments that require approval of the members and any proposal to remove a director or an officer. ANY NOTICE FOR A MEETING OF MEMBERS TO PROPOSE ACTION OTHER THAN THE ELECTION OF DIRECTORS SHALL PROVIDE FOR AN OPPORTUNITY FOR EITHER THE BOARD OF DIRECTORS OR ANY MEMBER OR GROUP OF MEMBERS TO SUBMIT ARGUMENTS FOR OR AGAINST THE PROPOSED ACTION FOR DISTRIBUTION BY THE ASSOCIATION TO ALL MEMBERS, OR POSTING ON THE ASSOCIATIONS'S WEB SITE, A MAXIMUM OF TWENTY DAYS FROM THE DATE THE MEETING NOTICE WAS ISSUED, BUT AT LEAST FIVE BUSINESS DAYS PRIOR TO THE MEETING DATE. The failure of any member to receive actual notice of a meeting of the members does not affect the validity of any action taken at that meeting.

DC. Before entering into any closed portion of a meeting of the board of directors, or on notice of a meeting under subsection Ed of this section that will be closed, the board shall identify the paragraph under subsection A of this section that authorizes the board to close the SPECIFIC SUBJECT MATTER OF THAT meeting.

ED. Notwithstanding any provision in the declaration, bylaws or other community documents, for meetings of the board of directors OR COMMITTEES OF THE BOARD OF DIRECTORS ~~that are held after the termination of declarant control of the association~~, notice to members of THAT meetings ~~of the board of directors~~ ALONG WITH ANY OPEN MEETING AGENDA, shall be given at least forty-eight hours in advance of the meeting by newsletter, conspicuous

posting or any other reasonable means as determined by the board of directors. An affidavit of notice by an officer of the corporation is prima facie evidence that notice was given as prescribed by this section. Notice to members of meetings of the board of directors **OR COMMITTEE OF THE BOARD**, is not required if emergency circumstances require action by the board **OR COMMITTEE** before notice can be given. Any notice of a board **OR COMMITTEE** meeting shall state the date, time and place of the meeting. The failure of any member to receive actual notice of a meeting of the board of directors **OR COMMITTEE** does not affect the validity of any action taken at that meeting.

FE. Notwithstanding any provision in the declaration, bylaws or other community documents, for meetings of the board of directors **OR COMMITTEES OF THE BOARD** ~~that are held after the termination of declarant control of the association,~~ all of the following apply:

1. The agenda shall be available to all members attending. **THE BOARD OR COMMITTEE MAY REVISE THE AGENDA PRIOR TO THE MEETING TO INCLUDE ANY ISSUE IDENTIFIED SUBSEQUENT TO THE POSTING OF THE ORIGINAL AGENDA. ADDITIONALLY THE BOARD OR COMMITTEE MAY DISCUSS, DELIBERATE, AND DECIDE ANY ISSUE RAISED AT THAT MEETING BY UNIT OWNERS AT THEIR DISCRETION.**

2. An emergency meeting of the board of directors **OR COMMITTEE** may be called to discuss business or take action that cannot be delayed for the forty-eight hours required for notice. At any emergency meeting called by the board of directors, **OR COMMITTEE**, the board of directors **OR COMMITTEE** may act only on emergency matters, **AND MAY BE CONDUCTED BY ANY MEANS DESIRED.** The minutes of the emergency meeting shall state the reason necessitating the emergency meeting. The minutes of the emergency meeting shall be read and approved at the next regularly scheduled meeting of the board of directors **OR COMMITTEE.**

3. A quorum of the board of directors **OR COMMITTEE** may meet by means of a telephone conference, **OR OTHER TECHNOLOGICAL MEANS** if a speakerphone, **OR OTHER TECHNOLOGICAL MEANS** is available in the meeting room that allows board **AND COMMITTEE** members and association members to hear all parties who are speaking during the meeting, **AND PARTICIPATE IN THAT MEETING REMOTELY.**

4. Any quorum of the board of directors that meets informally to discuss association business, including workshops, shall comply with the open meeting and notice provisions of this section without regard to whether the board votes or takes any action on any matter at that informal meeting.

G. **THE DRAFT MINUTES OF ANY OPEN OR EMERGENCY MEETING OF THE BOARD OF DIRECTORS, OR COMMITTEE OF THE BOARD, OR MEMBERS SHALL BE MADE AVAILABLE TO ANY MEMBER UPON REQUEST NO LATER THAN TEN BUSINESS DAYS AFTER THE MEETING. THE ASSOCIATION MAY POST THOSE DRAFT MINUTES AT A CONVENIENT LOCATION AT THEIR DISCRETION.**

HF. It is the policy of this state as reflected in this section that all meetings of a planned community, whether meetings of the members' association or meetings of the board of directors of the association, **OR COMMITTEES OF THE BOARD OF DIRECTORS**, be conducted openly and that notices and agendas be provided for those meetings that contain the information that is reasonably necessary to inform the members of the matters to be discussed or decided and to ensure that members have the ability to speak after discussion of agenda items, but before a vote of the board of directors, **COMMITTEES**, or members is taken. Toward this end, any person or entity that is charged with the interpretation of these provisions, including members of the board of directors and any community manager, shall take into account this declaration of policy and shall construe any provision of this section in favor of open meetings.

33-1812. Proxies; absentee ballots; definition

A. Notwithstanding any provision in the community documents, after termination of the period of declarant control, votes allocated to a unit may not be cast pursuant to a proxy. The association shall provide for votes to be cast in person and by absentee ballot. **ABSENTEE BALLOTS MAY BE DELIVERED AND RETURNED BY ANY MEANS** ~~and, in addition, the association may provide for voting by some other form of delivery,~~ including the use of **REGULAR MAIL, HAND DELIVERY, ONLINE VOTING SERVICES,** e-mail and fax delivery, **OR OTHER SUITABLE MEANS.** Notwithstanding ~~section 10-3708 or the~~ **ANY** provisions of the community documents, any action taken at an annual, regular or special meeting of the members shall comply with all of the following: ~~if absentee ballots or ballots provided by some other form of delivery are used:~~

1. The ballot shall set forth each proposed action.

2. The ballot shall provide an opportunity to vote for or against each proposed action.

3. FOR BALLOTS INVOLVING THE ELECTION OF BOARD MEMBERS THE BALLOT WILL IDENTIFY THE NUMBER OF OPEN SEATS AVAILABLE TO FILL, THE NOMINATED CANDIDATES FOR THOSE POSITIONS AND A WRITE IN LINE FOR EACH OPEN SEAT, WHERE ANY QUALIFIED, AS DEFINED IN THE BYLAWS, MEMBER'S NAME MAY BE ADDED BY THE VOTING MEMBER, AND WHETHER CUMULATIVE VOTING WILL BE UTILIZED, IF ALLOWED IN THE BYLAWS.

4. The ballot is valid for only one specified election or meeting of the members and expires automatically after the completion of the election or meeting. **IF A MEETING IS CONTINUED DUE TO LACK OF QUORUM OR ANY OTHER REASON, THE ABSENTEE BALLOTS SUBMITTED REMAIN VALID FOR THE CONTINUED MEETING.**

5. The **ABSENTEE** ballot specifies the time and date by which the ballot must be delivered to the board of directors in order to be counted, which shall be at least seven days after the date that the board delivers the unvoted ballot to the member.

6. The ballot does not authorize another person to cast votes on behalf of the member. **NO BALLOT SHALL BE ACCEPTED AT THE MEETING FROM ANYONE OTHER THEN THE VOTING MEMBER.**

7. The completed **ABSENTEE** ballot shall **BE RETURNED WITH A SEPARATE AUTHENTICATION DOCUMENT, WHICH WILL** contain the name, address and **THE ACTUAL OR ELECTRONIC** signature of the person voting, ~~except that~~

~~if the community documents permit secret ballots, only the envelope shall contain the name, address and signature of the voter.~~

87. Ballots, **SEPARATE SIGNED AUTHENTICATION DOCUMENT envelopes** and related materials, including sign-in sheets if used, shall be retained in electronic or paper format and made available for member inspection for at least one year after completion of the election.

9. **ANY MEMBER DETERMINED BY THE ASSOCIATION TO BE INELIGIBLE TO VOTE FOR THAT ELECTION OR BALLOT MEASURE MUST BE NOTIFIED PRIOR TO THE MEETING AND GIVEN AN OPPORTUNITY TO CORRECT OR CONTEST THAT INELIGIBILITY PRIOR TO THE VOTE.**

10. **IF AN ONLINE VOTING SYSTEM IS USED IT MUST ACCOMPLISH ALL OF THE FOLLOWING:**

(A) **AUTHENTICATES THE MEMBER'S IDENTITY.**

(B) **AUTHENTICATES THE VALIDITY OF EACH ELECTRONIC VOTE TO ENSURE THAT THE VOTE IS NOT ALTERED IN TRANSIT.**

(C) **TRANSMITS A RECEIPT TO EACH MEMBER WHO CASTS AN ELECTRONIC VOTE.**

(D) **STORES ELECTRONIC VOTES FOR RECOUNT, INSPECTION AND REVIEW PURPOSES.**

11. **THE ASSOCIATION IS RESPONSIBLE TO ENSURE THE INTEGRITY OF THE VOTING PROCESS, TO PREVENT BALLOT TAMPERING, TO ENSURE A TRUE AND ACCURATE BALLOT COUNT, AND TO ENSURE THAT PRELIMINARY VOTING RESULTS ARE NOT DISCLOSED IN ANY WAY TO ANY MEMBER, INCLUDING BOARD MEMBERS THAT HAVE NOT YET VOTED.**

B. **Votes cast by absentee ballot ~~or other form of delivery, including the use of e-mail and fax delivery~~ are valid for the purpose of establishing a quorum.**

C. **Notwithstanding subsection A of this section, an association for a timeshare plan as defined in section 32-2197 may permit votes by a proxy that is duly executed by a unit owner.**

D. **For the purposes of this section, "period of declarant control" means the time during which the declarant or persons designated by the declarant may elect or appoint the members of the board of directors pursuant to the community documents. ~~or by virtue of superior voting power.~~**

E. IF THE ASSOCIATION IS FOUND TO HAVE VIOLATED ANY PROVISION OF THIS SECTION IN CONDUCTING ELECTIONS OR BALLOT MEASURES THE ADJUDICATING TRIBUNAL EITHER THE ADMINISTRATIVE LAW JUDGE OR A COURT OF APPROPRIATE JURISDICTION MAY INVALIDATE THE ELECTIONS OR THE BALLOT MEASURE AS DEEMED APPROPRIATE BASED ON THE SPECIFIC CIRCUMSTANCES OF THE CASE.