

Law Offices
AYRES, JENKINS, GORDY & ALMAND, P.A.
6200 COASTAL HIGHWAY, SUITE 200
OCEAN CITY, MARYLAND 21842
www.ajgalaw.com

GUY R. AYRES, III (1945-2019)
M. DEAN JENKINS
JAMES W. ALMAND
WILLIAM E. ESHAM, III
MARK SPENCER CROPPER
BRUCE F. BRIGHT
HEATHER E. STANSBURY
MAUREEN F.L. HOWARTH
RYAN D. BODLEY
VICTORIA O'NEILL
SPENCER AYRES CROPPER

EMAIL ADDRESS:
jalmand@ajgalaw.com

(410) 723-1400
FAX (410) 723-1861

May 2, 2022

OF COUNSEL
HAROLD B. GORDY, JR.

Patricia Heath
Via Email: pheath1947@aol.com

Re: Bylaw Amendments

Dear Pat:

I have reviewed the four proposed bylaw amendments. Two of them pertain to Article V of the Bylaws and two pertain to Article VI. Attached to this letter are revisions to the current bylaws that should cover the four proposed amendments. I have taken the liberty of using different wording to assure clarity.

Attached is the recently adopted amendment to the Homeowners Association Act that specifies procedures for virtual meetings. This should resolve issues that came up during the early period of the pandemic when it was difficult for condominium and homeowners associations to schedule and hold in person meetings. At that point, there was no official guidance on how to hold association meetings or to conduct elections. By stating in the Bylaws that your Association must hold an annual meeting in person or virtually, there should be no problem in the future.

A few of my clients have adopted the use of voting software, which allows members to vote without attending the meeting and keeps a clear record of how votes are cast. Also, some of my clients have identified good providers of electronic meeting software to assist with holding virtual meetings. If the Park has not done so already, you may want to look into such software.

If you have any questions or concerns, please call.

Very truly yours,



James W. Almand

JWA/smf
Attachment

incurred pursuant to provisions of the Declaration prior to the giving of written notice to the Association that such person is no longer an owner.

Article V

Meetings of Members

Section 1. Any meeting of the members of the Association shall be held in Worcester County, in the State of Maryland, at such place therein as may be stated in the reasonable notice of such meeting, and shall be open to the members.

in person or virtually

Section 2. The annual meeting of the Association shall be held on the last Saturday of June of each year, and shall provide an agenda that is open to any matter relating to the Association.

Section 3. A quorum at the annual meeting for the purpose of electing a board member(s) shall consist of twenty-five (25) percent of the total property owners (116 lots) eligible to vote in person or by Absentee Ballot. A quorum for all other business conducted during the annual meeting, requiring a vote of the membership, shall consist of fifteen (15) percent of the total property owners (70 lots) eligible to vote in person only.

Section 4. The Board ~~may be required to call~~ ^{shall} special meetings of the Association ~~at any time in the manner herein provided.~~ ^{within 30 days} A special meeting ~~may be called~~ upon the written petition of a minimum of twenty (20) percent of the total property owners (93 lots) of the Association. Such petition shall set forth the purpose of the special meeting.

Section 5. A quorum for a special meeting shall consist of twenty (20) percent of the total property owners (93 lots) in person, and shall be members of the Association in good standing.

Section 6. Written notice of the place, date and hour of the meeting, and in the case of a special meeting, the purpose(s) for which the meeting is called, shall be delivered not less than thirty (30) days nor more than sixty (60) days before the date of the meeting, by mail, to each member entitled to vote at such meeting. The notice shall be deemed to have been delivered when deposited in the United States Postal Service, addressed to the member at his or her address as it appears on the records of the Association, with postage prepaid; or such notice may be published in any newspaper or publication printed under the auspices of the Association and distributed generally among the members of the Association. At a special meeting, no business shall be conducted except that stated in the notice of said meeting.

Ar + VI

(h) elect the officers of the Association by a majority vote. It may establish committees of the Association and appoint the members thereof. It may assign to such committees such responsibilities and duties not inconsistent with the provisions of the Declarations, these By-Laws or with law as it may deem appropriate;

(i) in April of each year, adopt an operating budget, as required by and for the purposes set forth in the Declaration. Upon consideration of any other sources of income of the Association, establish and levy the annual assessment for the following year, in accordance with the Declaration. The Association's fiscal year will begin April 1st and continue through March 31st;

(j) hear appeals concerning the Environmental Control Committee's decision and exercise all powers conferred upon the Board or Association, without specification of the method of exercise, by the Declaration or by operation of law.

Section 2. Each director shall hold office for a term of three (3) years or until a successor is elected and qualifies.

Section 3. A director shall be at least twenty-one (21) years of age and must be a member of the Association in good standing.

→ Section 4. Any member in good standing may file a nomination, in writing, for director with the Board Secretary at least forty-five (45) days prior to the annual meeting.

(a) Election of directors shall be by majority vote, in person ^{at a virtual meeting} or by absentee ballot, at the annual meeting of the members, with each member entitled to vote as is set forth in Article III, Section 1, hereof. Each member may cast the number of votes to which such member is entitled for each position to be filled on the Board. Cumulative voting shall not be permitted.

(b) If more than one (1) position is being voted on, the person(s) receiving the largest number of votes shall be elected to the vacancy(s) that occur in any given year and shall serve for three (3) years. If, prior to the notice of election, the Board of Directors, by resolution, shall have increased the number of directors to seven (7), as is provided in Article VI, Section 1, the individuals being elected will serve a period of time so that no less than two (2) and no more than three (3) directors are voted for in any given year.

Section 5. Every member shall be entitled to vote either in person ^{at a virtual meeting} or by absentee ballot. The absentee ballot shall be used for the purpose of casting a vote at the annual election. The vote allows the homeowner to retain control over the manner in which his or her vote is cast.

Amendment to Article VI

“Section 12. The Board of Directors may not initiate or enter into litigation without the approval of a majority of those owners present in person or by proxy at a special meeting at which a quorum is present. The purpose of and parties to the litigation shall be stated in the notice of the meeting. This Section shall not pertain to litigation by the Association to collect a debt owed to the Association or to litigation initiated by a party against the Association.”

Md. Real Property Code Ann. § 11B-113.6

Statutes current through Chapter 2 of the 2022 Regular Session of the General Assembly.

Michie's™ Annotated Code of Maryland > Real Property (Titles 1 — 15) > Title 11B. Maryland Homeowners Association Act. (§§ 11B-101 — 11B-118)

§ 11B-113.6. Attendance at virtual meetings — Attendees deemed present — Voting and ballots — Technical linking difficulties not invalidating.

(a)

- (1) Notwithstanding language contained in the governing documents of the homeowners association, the governing body may authorize meetings of the homeowners association, the governing body, or a committee of the homeowners association to be conducted or attended by telephone conference, video conference, or similar electronic means.
- (2) If a meeting is conducted by telephone conference, video conference, or similar electronic means, the equipment or system used must permit any lot owner, board member, or committee member in attendance to hear and be heard by all others participating in the meeting.
- (3) A link or instructions on how to access the meeting by telephone conference, video conference, or similar electronic means shall be included in the notice of the meeting.
- (4) No specific authorization from lot owners shall be required to hold a meeting electronically.

(b) Any lot owner, board member, or committee member attending a meeting by telephone conference, video conference, or similar electronic means shall be deemed present for quorum and voting purposes.

(c)

(1)

- (i) Any matter requiring a vote of the homeowners association may be set by the governing body for a vote at the meeting, and a ballot may be delivered to members with notice of the meeting.
- (ii) Only those lot owners present during the telephone conference, video conference, or similar electronic meeting shall be authorized to vote a ballot in accordance with this subsection.
- (iii) Lot owners who are not present at the meeting may:
 1. Vote by proxy in accordance with the requirements of the governing documents and this title; and
 2. Be considered present for quorum purposes through their proxy.

(2)

- (i) The governing body may set a reasonable deadline for return of a ballot to the homeowners association, including return by electronic transmission.
- (ii) The deadline for return of the ballot shall be not later than 24 hours after the conclusion of the meeting.

(d) Notwithstanding language contained in the governing documents of the homeowners association, nominations from the floor at the meeting are not required if least one candidate has been nominated to fill each open position in the governing body.

Md. Real Property Code Ann. § 11B-113.6

(e) The inability of a lot owner to join a meeting due to technical difficulties with the lot owner's telephone, computer, or other electronic device does not invalidate the meeting or any action taken at the meeting.

History

2021, ch. 523, § 1; ch. 524, § 1.

Michie's™ Annotated Code of Maryland

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