

DRAFT Proposal for HOA Voting Reform
Colorado HOA Forum
HOA Homeowners Advocacy Organization
www.coloradohoaforum@gmail.com email coloradohoaforum@gmail.com

Require homeowner approval by way of Vote by Mail (VBM) for: HOA annual budgets, assessment increases greater than a certain amount; special assessments above a certain threshold, capital projects that are not considered routine or planned or funded through reserve funds , changes to the HOA Declaration and by-laws, litigation and construction defects law suits, reserve fund maintenance and funding, recall elections, the transfer and/or relinquishing ownership of community assets or common property to any government entity, business, Metro District or special district or third party outside of the HOA or that has had a business relationship with the HOA in the past 5 years: the same requirement pertains to assigning HOA assessment income to an outside entity or any business or local government. On-line or electronic voting systems can be used in lieu of VBM but must meet criteria created by DORA. Note: the idea is inclusion of all homeowners in HOA governance and to provide one standard means of doing so through the VBM process.

Internet based electronic (on-line) voting is allowed but only one method, electronic voting or VBM, is allowed during any referendum. Electronic voting can be exclusionary to those elderly and lower income without access to the Internet, requires training of homeowners and administrative personnel, costs the HOA in oversight and purchase of software, issues with validating voters and maintaining a data base of authorized voters and eliminating unauthorized from the voting roles, etc.

The above tasks for VBM approval will not be completed at an HOA meeting with a limited number of homeowners allowing the few to speak for the many. HOA meetings held at a specific date and time are exclusionary and discriminate against those working at that time, folks with disabilities who can't attend, those who are ill that night, military personnel who are homeowners but on serving elsewhere, etc.

VBM approval of an initiative requires 50% plus one vote for approval of homeowners. Exceptions are made to this percentage when voting on changes to an HOA Declaration or by-laws or other State statute that can't be changed. Retention of VBM ballots are to be retained in the same manner as stated in CC CIOA for Board elections.

HOA non-compliance with CCIOA (and hence this proposal) can result in penalties including losing the authority to assign fines, pursue legal actions against homeowners, removal of a Board member or member(s) or other remedy recommended by DORA.

VBM eliminates proxies as it includes and notifies every homeowner on a referendum and the opportunity to vote or not. Proxies are generally used when homeowners can't attend a meeting to have someone represent them at the meeting or the venue or process for voting is not available to all homeowner. VBM doesn't replace the requirement to present the issue at an HOA Board or community prior to mailing out ballots. VBM will require each mailed ballot to include on a separate document/enclosure and explanation of the proposal, the pros and cons of the proposal, financial impact on homeowners, due dates for mailing, requesting a lost ballot but not providing a second chance or method to change a ballot and other information as proposed by DORA.

No defaulting mail-in ballots to any Board member or person involved in governance of the community.

Hoarding of VBM ballots is prohibited because every homeowner has access to a mailbox, community ballot drop box and/or can hand off their completed and sealed ballot to any neighbor for mailing.

HOA Board members and others involved in the governance of the community over the past five years can't be involved in the vote counting and verification process.

Incorrectly or incomplete ballots mailed in are to be retained by the HOA and considered a non-vote and not defaulted to any person. The definition of an incorrectly or incomplete ballot is a ballot with no signature, voting for more than one candidate when only one can be selected, unreadable, not voting for any candidate or issue on the ballot, a ballot received from an unauthorized person or any ballot not in compliance with instructions accompanying the ballot, a ballot signed or completed by a non-homeowner, (add more?).

DORA will develop a standard VBM ballot and mailing envelop and VBM mail/drop box requirements for use by all HOAs. DORA can add but not eliminate issues requiring VBM. HOAs will provide drop boxes for ballots.

No ballot will contain any language that indicates the homeowner must vote or indicate anything threatening if a homeowner elects not to participate.

Ballots are bilingual: English and Spanish. Other languages addressed the same as the State handles this in our state-wide elections.

Penalties for delinquency in payment of assessments can include suspension of voting privileges, removal from Committee and/or use of community amenities if in HOA governing documents

HOA issues not listed to be completed by VBM can be voted upon by homeowners at HOA meetings (in person), require a quorum at the meeting and approval or disapproval can be gained through a majority vote of those homeowners present at the meeting (not a majority of homeowners).