

DRAFT Proposal on HOA Voting Reform

Developed by the Colorado HOA Forum

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[HOA Voting Reform: Content and Requirements for use in writing a legislative proposal.](#)

Vote by Mail (VBM) Overview:

Vote by Mail (VBM) is a trusted, tested and widely accepted process by homeowners and HOA's (Homeowner's Association) and is used by the State in elections. VBM is an inclusive process: if you own a housing unit you get a ballot. A homeowner can vote in the privacy of their home and not have to attend a meeting in which they may feel intimidated. VBM is not impacted by the weather; allows those with a disability or illness to participate; overcomes transportation issues; and allows for those who are employed or traveling for business, military service members who may be out of town and those away on personal business or vacation to vote. It promotes awareness of important issues that are explained in/on the ballot sent to homeowners. It refutes much of the argument by homeowners that they didn't know about or have the opportunity to be involved in approving/rejecting important community initiatives and addresses concerns about voter apathy. VBM increases voter turnout. VBM allows a homeowner to choose not to send in their ballot. It is a confidential process. VBM will eliminate the practice of a few (who can a meeting) make decisions for the whole community. Voter intimidation is eliminated.

This proposal addresses the requirement to use VBM to approve the following items and other initiatives that a Board decides to use VBM: HOA annual budgets, (monthly) assessment increases greater than a certain amount (this is based on a profile of the HOA and determined by DORA mandates); special assessments above a certain threshold; based on an HOAs profile; capital projects that are not considered routine or planned through reserve funds; changes to the HOA Declaration or by-laws; litigation and construction defects law suits; reserve fund maintenance assessments; and any transfer and/or relinquishing ownership of community assets or common property to any government entity, person or 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; assigning HOA assessment income to an outside entity or any business or local government. Note: the idea of this VBM proposal is inclusion of all homeowners in HOA governance. Only one voting process is allowed during any referendum with exceptions approved by the HOA Board.

VBM can be conducted at any time on the issues mentioned in this proposal and approved by the HOA Board.

The percentage of votes to gain approval or rejection on the items listed in this proposal will not be changed due to this proposal. Voting reform will change the process used by an HOA to complete voting on the issues listed in this proposal. Retention of VBM ballots will not change. Voting requirements in CCIOA or in HOA government documents will not change except for requiring a homeowner vote on certain issues and events.

HOA non-compliance with CCIOA (and hence this proposal) voting procedure can result in penalties to an HOA including losing the authority to assign fines, pursue legal actions against homeowners including, foreclosures, removal of a Board member or member(s) or other remedy recommended by DORA but no penalty will be monetary.

VBM eliminates proxy voting on the issues listed in this proposal. Proxies provide a process that allows one homeowner to represent another voting. Proxies are generally used when a homeowner can't attend a meeting at which homeowner approval or rejection of an HOA issue is completed. VBM will require each mailed ballot envelope to include on a separate document/enclosure an explanation of the proposal, the pros and cons of the proposal, financial impact on homeowners, due dates for mailing, how to request a lost ballot and explain that the homeowner can only vote once and will use VBM and that a homeowner is not provided a second chance to change their ballot after mailing.

No defaulting a mail-in ballot to any Board member or person involved in governance of the community or other homeowner.

Hoarding ballots and in-person solicitation of ballots completed by homeowners is prohibited. HOA Board members will not use a community meeting or HOA assets to promote an issue.

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.

Incorrect or incomplete ballots received by the HOA are considered a non-vote and will not be defaulted to any person, will not require the HOA to contact the homeowner about an error and will not be deemed to be an affirmative or negative vote.

DORA will develop: a standard VBM ballot and mailing envelop; a standard for VBM mail/drop boxes and require all HOAs to use these VBM items within one year after passage of this proposal. DORA can add but not eliminate issues requiring VBM. HOAs will provide drop boxes for ballot within the community but homeowners may also use US mailboxes.

No ballot will contain any language that indicates the homeowner must vote or indicate anything threatening if a homeowner elects not to participate. HOAs will maintain records to identify who voted and how they voted, whose ballots were deemed invalid, and be able to identify those who did not vote. Any narrative about an issue concerning what is being voted upon must be unbiased, explain the impact of passing or failing the initiative, the financial impact on the community, implementation date and other mandatory items determined by DORA.

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

Penalties can be issued by DORA on an HOA for non-compliance. Penalties will be non-monetary and determined by DORA.

