

First Amendment: Election Bylaw Changes

Board of Directors Explanation

In the 2010-2011 Board of Directors Election, the discovery of 139 irregular ballots changed the outcome of the election. This resulted in a Court ordered re-election and reversal of the original outcome. The proposed provision is designed to help protect the Association from this occurring again.

Current Provisions

ARTICLE IX — Election Procedures

Section 9.1

(A) The election committee, composed of not less than five (5), no more than seven (7), all of whom shall be Owner-Members of this Association in good standing, shall present to the Board of Directors, at the regularly scheduled Board meeting in July by 12:00 (noon) Eastern Daylight Savings Time, a list of eligible candidates for positions to be filed by the election at the Annual Election Meeting. Additional nominations may be made by petition signed by ten (10) members in good standing who have the consent of the candidate, provided said petition shall be filed with the Chairperson of the Election Committee not later than the date of the regularly scheduled Board meeting in August by 12:00 (noon) Eastern Daylight Savings Time. No member shall sign a number of petitions greater than the number of candidates to be elected at the next Annual Election Meeting. All candidates must utilize the official Winona Lakes Property Owners Association filing form and personally sign the form in the presence of the Community Manager or his designee. No member of the Election Committee nor member of their immediate family shall be a candidate for election. Immediate family is defined as spouse, child, sibling or parent.

(B) In the event there are more board seat openings than applications or petitions received and the length of term on the board is the same for the available seats, the Board of Directors may determine that an elections will not be held and the application/petitions that have been received shall be appointed as board members at the Reorganization meeting in October.

Section 9.2 Ballots containing names of the candidates shall be mailed by the Secretary of the Association of his/her designee to all members in good standing at least thirteen (13) days before the election meeting. Members shall indicate their choices and return their ballots to the Election Committee in an envelope provided. The ballots may be mailed or delivered in person at the Election Meeting.

Section 9.3 Ballots shall be opened and counted at the Annual Election Meeting. The results of the balloting shall be declared at the Annual Election Meeting and certified by the Secretary of the Association or his/her designee.

Section 9.4 The term of office shall commence immediately following the Annual Election Meeting and end at the Adjournment of the Annual Election Meeting in the year in which the term expires.

Section 9.5 Notwithstanding the preceding provisions, no nominations for directors and no petitions for the same will be considered if the proposed nominee is:

(A) An active supplier of goods or services to the Association, an employee of such supplier, or

- (B) A person convicted of a felony in any court in the United States or
- (C) Has not been an Owner Member in good standing for the entire preceding year, or
- (D) The proposed nominee has conflict of interest. The Board shall determine all cases of conflict of interest after investigation and submission of findings by the Ethics Committee.

Section 9.6 If for any reason an election cannot be conducted at the Annual Meeting, or if conducted, the results thereof cannot be certified, the Board shall have the right to conduct the annual election at such later date and time as it shall set, provided, however, that in so doing it shall attempt to comply with the scheduling provisions and all other terms of this Article.

Proposed Provisions

Section 9.1a Elections applications shall be made in person at the Association office using the approved filing form and personally signing the form in the presence of the Community Manager. Should there be a vacancy at the Community Manager position the Association Secretary or his/her designee shall fill that role. Any Owner Member in good standing may apply to run for any elected position until the third Saturday of August at 12:00 noon.

Section 9.1b Eligibility Requirements:

- (A) Shall be at least (18) eighteen years of age.
- (B) Shall be an Owner Member in good standing at the time of application, and maintain such good standing for the duration of the term if elected.
- (C) Shall not be an active supplier of goods or services to the Association, or an employee of such supplier.
- (D) Shall not have been convicted of a felony in the United States.
- (E) Only (1) Owner Member per lot is eligible for elected office.

Section 9.1c The Annual Election Meeting shall be held on the third Saturday of October at 10:00 a.m. There shall be no quorum requirement of Members or Directors for the meeting to be called to order. There shall be no business conducted other than the gathering and counting of the ballots. The election shall be conducted by mail ballot with all Owner Members in good standing receiving (1) vote per lot. Owner Members may also cast their votes in person the day of the Annual Election Meeting by placing their ballots into the ballot box between the hours of 10:00 a.m. and 12:00 noon. Members in good standing may also hand deliver other Owner Members ballots to the auditors, in which case the auditors shall record the name of the person delivering the ballot(s) as well as the name of the Owner Member whose ballot(s) is being delivered. At 12:00 noon the President shall announce the close of the voting and recess the meeting at which time the auditors shall count the ballots. After the auditors have concluded the tabulation, they shall summon the Association Secretary or his/her designee who will confer with them as to any irregularities, if any, they noted during the count. If satisfied the election has been conducted properly and in accordance with the WLPOA Bylaws, the Secretary or his/ her designee shall certify the results. The Secretary shall then transmit the tabulations to the President who shall announce the results to the membership. The term of office shall commence immediately following the Annual Election Meeting and end at the adjournment of the Annual Election meeting in the year the term ends.

Section 9.1d The Association shall use auditors certified as Certified Public Accountants, selected by the Board of Directors prior to June 1st of that election year. The auditing company shall coordinate the election with the printing company selected by the Board of Directors that year. The auditing company shall not have any business affiliation with the printing company which would create a conflict of interest.

Section 9.1e The Association shall use a reputable printing company for the printing and mailing of the ballots. The ballots shall have random serial numbers, an embossing stamp and be printed on water marked security paper. The list of serial numbers, all information relating to the watermarked paper and any other security measures will remain solely in possession of the printer and auditors.

Section 9.1f The ballots, serial number list and any other security information shall remain in an uncompromised chain of custody with the auditors for period of (3) years. After (3) years, the auditors shall destroy them. Should circumstances arise that the auditors cannot retain possession they shall be turned over to the Association Solicitor.

Section 9.1g Each ballot, shall be composed of a list of the eligible candidates with a box to mark next to their respective names. The ballot shall then be placed into an envelope marked on the outside "BALLOT". The envelope containing the ballot shall be placed into another envelope on which the following information shall be printed on that envelope:

(A) Owner Member name, lot and section.

(B) A signature line to which the Owner Member must sign his/her name.

(C) The ballot envelope and signature envelope shall be placed into a postage paid, return envelope addressed to the election auditor's legal business address.

(D) A detailed set of approved instructions shall accompany the ballots. Any ballots returned without proper compliance shall not be counted.

(E) Any Owner Member's ballot that is disqualified shall be notified as to the reason by mail following the election.

(F) The printing company shall mail the ballots to the Owner Members at least thirteen (13) days prior to the Election Meeting.

Section 9.1h The Election Committee, without a quorum requirement, shall be present to observe the counting of the ballots with the auditors and report any irregularities to the Association Secretary. No member of the Election Committee or member of their immediate family shall be a candidate for election. Should a member of the Election Committee sign a petition to remove a member(s) of the Board of Directors or engage in legal actions, or if they should openly support/lobby for or against any candidate or Board member(s) or the Ombudsman or an Ombudsman's candidate, they are automatically in forfeiture of their election committee seat.

Section 9.1i Should the election include the filling of a vacant Board position(s) with less than a three year term(s), the candidate(s) with the lowest winning vote total(s) will be awarded the shortest vacant term(s) in that order.

Section 9.1j Should there be a tie for any of the Directors positions, it shall be decided by the flip of a coin conducted by the President, whichever candidate is first by last name on the official ballot shall make the call “heads” or “tails”, while the coin is in the air.

Section 9.1k Appeals of results of an election may be made to the Ombudsman or directly to the Board of Directors for up to (90)ninety days from the date of the Annual Election in question. The appeal must be in writing and specify the reason. The Board of Directors shall investigate any and all election complaints in cooperation and conjunction with the Ombudsman and publish their findings as well as any actions taken in the WinonaGram. Should the appeal be related to the Ombudsman election, the Board shall conduct the investigation.

Section 9.1l The Board of Directors has the right to investigate any and all election complaints. A majority vote of the Board of Directors shall be required to authorize an election ballot recount, the results of which shall seat the properly elected Directors.

Section 9.1m In the event there are more board seat openings than applications and the length of term on the board is the same for the available seats, the Board of Directors may determine that the elections shall not be held and applications that have been received shall be appointed as board members at the conclusion of the election meeting held in October.

Section 9.1n If, for any reason an election cannot be conducted at the Annual Election meeting or if conducted the results thereof cannot be certified, the Board shall have the right to conduct the Annual Election at such a date and time as it shall set provided however, that in so doing it shall attempt to comply with the scheduling provisions and all other terms of this article.

Section 9.1o The annual re-organization meeting shall be held no more than (2) hours after the President announces the results of the election but can be convened earlier if all of the Board members are present. There is no proxy voting during a re-organization meeting. A candidate for an officer’s position may submit a letter of acceptance if nominated in advance to the Association Secretary and can be elected in abstensia. This, supersedes any conflicting provisions in these Bylaws.