



Crosswoods Homeowners Association - Notice of Proposed Changes to the Association's Election Rules

1 message

Crosswoods HOA <Communications@mc.fsresidential.com>
Reply-To: Joshua Peters <josh.peters@fsresidential.com> To:

Fri, Mar 25, 2022 at 12:21 PM

Dear Crosswoods Homeowners Association Member,

The Board of Directors, having met in a regularly scheduled meeting on Wednesday, March 23, 2022, are proposing a revision to the Association's Election Rules. Thank you to the Board of Directors for their efforts in this revision.

We are sending you the newly revised and completed draft of the Association's Election Rules for your review and a 28 day Comment Period. Please review the enclosed document and feel free to forward your comments, opinions, or suggestions to Management. Following the 28 day Comment Period, the Board of Directors will once again meet in a regularly scheduled meeting on **Wednesday, April 27, 2022 at 6:00 PM** in order to approve and finalize the Rights and Remedies of the Association.

Please forward any comments or suggestions to Management at the email address listed below. The 28 day Comment Period will end on **Monday, April 25, 2022 at 5:00 PM**. Please provide any and all comments before the aforementioned deadline.

On behalf of the Board of Directors, thank you for your time, efforts, and interests as a Member of our great Community.

Best regards,

Josh Peters, CMCA
General Manager

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Notice of Proposed Amendments to the Election Rules
Of
Crosswoods Homeowners Association

The Board of Directors of the Crosswoods Homeowners Association is proposing to amend the Election Rules of the Association. The text of the proposed changes and a discussion of the purpose and effect are included with this general notice. The current Election Rules were adopted on April 7, 2020 and may be found on the Crosswoods website.

The proposed amendments will be considered for approval at the Board of Directors meeting scheduled for April 27, 2022 at 6 pm. Community members may address the Board about the proposed changes when the Board considers the agenda item for the rules changes at that meeting. Written comments will be received up to that time, but to be included in the Board Members' packet for the meeting, the written comments should be received by the Crosswoods office by 5:00 PM on Monday, April 25, 2022. Comments with suggested text changes and explanations for the changes are especially helpful.

The proposed changes to the Election Rules were made necessary by recent changes made to the Davis-Stirling Act by the California Legislature. The text of the proposed rule changes includes cross references to the code sections that were newly adopted or amended in the Davis-Stirling Act.

The most important changes are:

1. Disqualification of candidates and directors.
2. 90 day initial notice of election and procedure for nomination of candidates for election as directors.
3. Reminder notice about election and nominations before the deadline for nominations.
4. Acknowledgement of receipt of nominations and disqualifications.
5. Election by acclamation if nominations are equal to or fewer than the director positions up for election.

In the text of the proposed changes, additions are shown in *italics*, and deletions are shown in ~~strikeouts~~.

Text of Proposed Amendments to Elections Rules:

3.3. Holding Office. Each Director, unless removed by a vote of the Members, shall hold office until the expiration of the term for which they have been elected or appointed and until their successor has been properly elected and qualified *unless a circumstance occurs that would disqualify that Director as a candidate under Article 2 of these Election Rules in which case the Director is disqualified from office by operation of these Rules. CC 5103 (d)(3).*

3.4. Initial Notice of Election and Procedure for Nominations. ~~The Association shall provide general notice of the procedure and deadline for submitting a nomination at least thirty (30) days before any deadline for submitting a nomination. Individual notice shall be delivered pursuant to Civil Code Section 4040 if requested by a Member.~~
The Association shall provide individual notice of the election and the procedure for nominating candidates at least 90 days before the deadline for submitting nominations. The initial notice shall include all of the following:

3.4.1. *The number of board positions that will be filled at the election.*

3.4.2. *The deadline for submitting nominations.*

3.4.3. *The manner in which nominations can be submitted.*

3.4.5. *A statement informing members that if, at the close of the time period for making nominations, there are the same number or fewer qualified candidates as there are board positions to be filled, then the board of directors may, after voting to do so, seat the qualified candidates by acclamation without balloting. CC 5103 (b).*

3.5. Reminder Notice. *Between 7 and 30 days before the deadline for submitting nominations, the Association shall provide general notice, and individual notice to any member who requested individual notice, that shall include the all of following:*

3.5.1. *The number of board positions to be filled at the election.*

3.5.2. *The deadline for submitting nominations.*

3.5.3. *The manner in which nominations can be submitted.*

3.5.4. *A list of the names of all the qualified candidates to fill the board positions as of the date of the reminder notice.*

3.5.5. *A statement reminding members that if, at the close of the time period for making nominations, there are the same number or fewer qualified candidates as there are board positions to be filled, then the board of directors may, after voting to do so, seat the qualified candidates by acclamation without balloting. This statement is not required if, at the*

time of the reminder notice will be delivered, the number of qualified candidates already exceeds the number of board positions to be filled. CC 5103 (b)

3.6. Acknowledgment of Nomination. Within 7 business days of receiving a nomination, the association shall provide a written or electronic communication acknowledging the nomination to the member who submitted the nomination and to the nominee if that is a different person. The communication shall indicate either of the following:

3.6.1. The nominee is a qualified candidate for the board of directors, or

3.6.2. The nominee is not a qualified candidate for the board of directors, the basis for the disqualification, and the procedure by which the nominee may appeal the disqualification. CC 5103 (c)

3.7. Candidates to Run. The Association shall permit all candidates to run if nominated, except for nominees disqualified for running pursuant to Article 2. CC 5103 (d)

3.8. Election by Acclamation. The Association board may vote to consider the qualified candidates elected by acclamation without member balloting if all the following conditions are met:

3.8.1. There has been full compliance with this Article 3, CC 5103

3.8.2. There are the same number or fewer qualified candidates as there are board positions to be filled, CC 5103

3.8.3. The agenda item for a noticed meeting reflects the name of each qualified candidate that will be seated if the item is approved, and CC 5103(e)

3.8.4. The Association has held a regular election for the directors in the last three years. The three-year time period shall be calculated from the date ballots were due in the last full election to the start of voting for the proposed election. CC 5103(a).

Purpose and Effect: All of these provisions were added to the Davis-Stirling Act in section 5103 of the Civil Code by AB 502, Chapter 517 of 2021. Section 5103 authorizes an association to elect directors by acclamation where the number of candidates is equal to or less than the number of board positions to be filled at an election, if the association follows all the provisions in Section 5103. The Board of Directors has expressed interest in using election by acclamation to save time, effort, and money for drafting, printing, mailing and counting where the number of candidates is the same or fewer than the number of positions to be filled. The proposed rules are designed to match the conditions in Section 5103.

The standards for disqualifying a nominee are contained in Section 5105 ((c), d) and (e). Section 5103 provides that if an association disqualifies a candidate from running under Section 5105,

then the association rules shall also require directors to comply with the same requirements. The addition to Rules Article 3 follows that requirement. The disqualification standards are contained in existing Article 2 of the Election Rules.

Article 2.1.5 is amended to read:

2.1.5. Engaging in Internal Dispute Resolution. The Association shall not disqualify a Member from nomination who is delinquent in payment of their regular or special assessments if the Member has ~~neither requested nor been asked and~~ not been provided the opportunity to engage in internal dispute resolution with the Association. ~~This provision shall not apply, however, if the Association has previously offered the Member the opportunity to engage in the Association's internal dispute resolution process regarding the delinquency.~~ 5105(e).

Purpose and Effect: The existing language of Article 2.1.5 is confusing. The proposed language simplifies the wording and hopefully makes the meaning clear. As proposed, the language tracks with the text of section 5105(e) of the Davis-Stirling Act.