

NEWINGTON FOREST COMMUNITY ASSOCIATION, INC.

POLICY RESOLUTION NO. 15

(Procedures Relating to Annual, Board and Committee Meetings Held Electronically)
(9/21/21)

WHEREAS, pursuant to Article IV, Section 4.01 of the Newington Forest Community Association, Inc. (“Association”) Bylaws, the Board of Directors is authorized to exercise all powers and duties necessary for the proper administration of the affairs of the Association except those powers that are reserved to the Members by the laws of Virginia, the Articles of Incorporation, the Declaration and the Bylaws;

WHEREAS, Article III, Section 3.06 of the Association’s Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements (“Declaration”) permits the Board to adopt any such rules and regulations with respect to “any meeting of Members, proof of membership in the Association, evidence of right to vote, appointment and duties of inspectors of votes, registration of Members for voting purposes, voting by proxy and other matters concerning the conduct of meetings and voting”;

WHEREAS, Article III of the Bylaws contains a number of provisions explaining the terms and procedures related to the annual meeting of the members and voting rights and requires that the annual meeting be held in February of each year; and

WHEREAS, Article III, Section 3.08 of the Bylaws provides that members may vote in person or by proxy; and

WHEREAS, Section 55.1-1832 of the Virginia Property Owners’ Association Act (“POAA”) provides that unless the declaration expressly provides otherwise, (i) any notice required to be sent or received, or (ii) any signature, vote, consent or approval required to be obtained under any declaration or bylaw provisions or any provision of the POAA may be accomplished using electronic means and that the Association, lot owners and those entitled to occupy a Lot may perform any obligation or exercise any right under any declaration or bylaw provision or any provision of the POAA by use of electronic means; and

WHEREAS, Section 55.1-1832(D) of the POAA further provides that voting, consent to, and approval of any matter may be accomplished by electronic means provided that a record is created as evidence of such vote, consent, or approval and maintained as long as such record would be required to be maintained in non-electronic form; and

WHEREAS, Section 55.1-1832(F) of the POAA states:

“Any meeting of the association, the board of directors, or any committee may be held entirely or partially by electronic means, provided that the board of directors has adopted guidelines for the use of electronic means for such meetings. Such guidelines shall ensure that persons accessing such meetings are authorized to do so and that persons entitled to

participate in such meetings have an opportunity to do so. The board of directors shall determine whether any such meeting may be held entirely or partially by electronic means.”

WHEREAS, Section 55.1-1832(G) of the POAA states:

“If any person does not have the capability or desire to conduct business using electronic means, the association shall make available a reasonable alternative, at its expense, for such person to conduct business with the association without use of such electronic means.”

WHEREAS, Section 55.1-1815(H) of the POAA states:

“Unless expressly prohibited by the governing documents, a member may vote at a meeting of the association in person, by proxy, or by absentee ballot. Such voting may take place by electronic means, provided that the board of directors has adopted guidelines for such voting by electronic means. Members voting by absentee ballot or proxy shall be deemed to be present at the meeting for all purposes.”

WHEREAS, Section 13.1-844.2 of the Nonstock Corporation Act permits the Board of Directors to dictate that the annual meeting shall be held by means of remote communication provided that Articles of Incorporation or Bylaws do not require the annual meeting to be held at a place; and

WHEREAS, Section 13.1-844.2 of the Nonstock Corporation Act provides that if the Board so elects to hold an annual and special meetings of the members remotely, the Members participating by means of remote communication shall be deemed present and may vote at such a meeting if the corporation has implemented reasonable measures to: (1) verify that each person participating remotely is a member or a member’s proxy; and, (2) provide such members a reasonable opportunity to participate in the meeting and to vote on matters submitted to the members, including an opportunity to read or hear the proceedings of the meeting, substantially concurrently with such proceedings; and

WHEREAS, the Association’s Bylaws do not prohibit conducting meetings of the board, committee or members of the Association via electronic means and therefore, the Board of Directors deems it appropriate to adopt rules for the conduct of virtual board, committee and member meetings for when the Board deems virtual or electronic format to be appropriate.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT the Board duly adopts the following rules and policies:

I. Meetings Of The Members

The Board of Directors has the authority to determine whether meetings of the members shall be held entirely or partially by electronic means.

- A. Definitions - The following terms used in this document shall have the meanings defined below:¹
- a. Owners – Any person, corporation, trust, or other legal entity, or any combination thereof, which owns a Lot within the Association.
 - b. Quorum – The percentage of Owners that must be present in person, absentee ballot, or by proxy at a meeting of the Association members in order to open the meeting and conduct business. Such percentage is ten percent (10%) of the total votes within the Association.
- B. Nominations
- a. Nominations. A call for candidates may be mailed, emailed, and posted in not less than three conspicuous locations on the Association property, placed in the Association newsletter, and/or published in a local newspaper prior to the notice of the Annual Meeting. (See Article III, Section 3.05 of the Bylaws.) Anyone interested in serving on the Board of Directors may submit their candidacy for consideration by the members.
 - i. The Board may establish additional or alternative procedures for the nomination of Directors as long as they comply with the Governing Documents and Federal and Virginia laws.
- C. Notice Of Meetings of the Members Held by Electronic Means
- a. If the Board decides to hold a meeting of the members (e.g., the Annual Meeting) entirely or partially by electronic means, the Notice shall specify the date, time and the location on the internet where Owners will need to log onto the internet to connect to the Annual Meeting, where to log onto the internet to cast their electronic ballots, and generally the means and methods of participating in the Annual Meeting electronically. The platform will allow all Members to hear the proceedings, substantially concurrent with the proceedings.
 - b. Owners will be required to validate their ownership before being able to attend any meeting of the membership. Validation procedures will depend on the platform used but may include unique voting codes, meeting codes or other identifying features to ensure that the person participating is an Owner or an Owner’s proxy. The Notice for the Annual Meeting will include information on how to complete a validation, if needed, including the deadline for its timely completion. The validation process may be completed by the Election Committee and/or Association staff for the Owners.²
 - c. Notice may be sent by mail or electronic means. Notice may only be sent by electronic means if consented to by the Owner to whom the notice is given. If such electronic mail is

¹ These definitions have been modified / provided for readability. In the event of any dispute over their meaning, the definitions/information in Article I, Section 1.20 of the Declaration, Article III, Section 3.06 of the Bylaws, and Section 55.1-1815(H) of the POAA shall be used.

² The Association staff currently has computer systems and records available that allow it to complete validations except for recent property title transfers. New Owners will likely need to contact the Association staff to participate in a meeting if they have owned their property for less than approximately 30 days.

returned as undeliverable, notice will then be sent by United States mail or personally delivered.

d. Included with the Notice shall be:

i. Proxy and Absentee Ballot forms to be used by those Owners who cannot attend the meeting but wish to vote on matters before the meeting. Specific requirements as to these items are addressed below in Sections D and E.

ii. Instructions for use and submission of any electronic Proxy/Ballot for any Annual Meeting that is convened entirely or partially using electronic means.

iii. The Notice shall also specify how the proxy or absentee ballot may be submitted. Proxies may be submitted by hand, mail or electronic means.

D. Proxy and Absentee Ballots

Pursuant to the Bylaws and the POAA, Owners may vote in person, by proxy, by absentee ballot, or by electronic means.

a. Proxy and mail-in voting ballots (prior to the meeting) must be submitted in accordance with the instructions set forth in the notice of meeting at which such election shall be held, which can be by mail, e-mail, personally delivered to the Association office at the Community Center, or other means as directed in such instructions. The notice of meeting will include information on the chosen platform, how to submit proxy and absentee election ballots, and the deadline for submission to the Association's office at the Community Center, which shall be before the commencement of the meeting. Delivery of a ballot or proxy may be by electronic means or paper form.

b. At any meeting held partially or wholly electronically, all voting (during the meeting) shall be by written proxy or ballot and must be personally submitted at the Community Center or other location established by the Board. No voting by electronic means will occur during the meeting. See Section III of this resolution for how voting may occur at the Community Center.

c. If requested in writing, by email, or verbally in person or by telephone (703 451-8563), each Member will receive an official Association proxy and absentee election ballot which serves the following purposes:

i. To designate a specific proxy holder who shall be present at the Annual Meeting, which shall ensure that the Member's presence is counted for quorum purposes at the meeting, and

ii. To designate the specific candidates that the Member wishes to vote for related to the election of directors.

iii. To vote on any other matters properly brought forth consistent with the directions and/or authority provided by the proxy.

d. Once the deadline for submission of proxies has passed, Association Management and the Election Committee shall meet for the purpose of determining the validity of the votes on the Proxy/Ballots and to calculate the votes. Any Proxy/Ballots determined to be invalid shall be eliminated from the calculation of votes. A written record shall be kept of the reason for each invalidation.

If questions arise as to the validity of a particular Proxy/Ballot, they shall be segregated and referred to the Board of Directors, in consultation with legal counsel (if present) for the Association, for final determination only if such determination will impact the outcome of the election. If such questions will not impact the outcome of the election, no ruling on validity is necessary. For the purposes of this section, the Board will be considered to consist of those directors who are not running for re-election at the Annual Meeting and any Directors whose election will not be impacted by the determination. If the Board is unable to agree on a ruling or has no Directors eligible to make the determination, legal counsel will render the final determination on the dispute or question.

e. Signatures on Proxies or Ballots shall be presumed to be that of an authorized Owner even if the signature is less than legible or if the signature is made via electronic means in the form of the Owner's initials.

E. Voting

a. The Board may designate an electronic platform for voting in addition to mail in or electronic submission of proxy and ballots through the Association website or other electronic means. The notice of meeting will include information on the chosen platform, how to cast votes, where to submit votes, and the duration of the voting period. Any Member who cannot vote by electronic means may contact the Managing Agent for a paper mail in ballot.

b. Members submitting electronic votes may be required to validate their ownership. Validation procedures will depend on the platform used but may include unique voting codes or other identifying features to ensure that the person voting is a Member or a Member's proxy. See footnote 2 for validations that may be completed by the Association staff.

F. Quorum

a. The presence of any Member or proxy attending the meeting virtually will be counted as being present for purposes of quorum. Accordingly, quorum will be deemed present throughout the meeting even if a Member or proxy leaves the virtual meeting once the meeting is called to order. Members voting by electronic means, proxy, or absentee ballot shall be deemed to be present at the meeting for all purposes.

b. In the event quorum is not met, a majority of Members present in person or proxy may:
(i) adjourn the meeting to a different date, time or place. Notice need not be given again if

the new date, time or place is announced at the meeting before adjournment; otherwise if the new date, time and place is not announced prior to adjournment, the Secretary shall provide further notice of such date, time and place to the Members. At the subsequent meeting, the quorum requirement shall be one half (1/2) of the percentage required at the meeting before.

G. Meeting Conduct

- a. For any meeting or portion of a meeting that is conducted electronically, the Board may adopt rules and regulations regarding the conduct of members in the meeting as is appropriate for the forum or platform being used.
- b. During any meeting of the members, members will be required to mute their microphone or other speaking ability during all times other than during any open session, when actively acknowledged by the Board or other meeting moderator as having a turn to speak or address the meeting.

H. Miscellaneous

- a. All virtual platforms used by the Association will be capable of creating a record maintainable by the Association as evidence of such Member's vote, proxy, and attendance. Proxy and absentee ballots will also be maintained by the Association.
- b. At the conclusion of the meeting, all of the election records, including, but limited to, Proxies and Ballots, all invalid Proxy or Ballots, the Owner attendance list, the report of the final election results, and any other records shall be maintained in care of the Association Management as an official record of the Association.

II. Board And Committee Meetings

- A. The Board of Directors has the authority to determine whether meetings of the Board and Committees shall be held entirely or partially by electronic means.
- B. The Board shall determine the virtual place for Board and Committee meetings by way of a virtual platform, conference call number or other electronic means. All notices of Board and/or Committee meetings will advise Owners of the means and methods for participating in the meeting electronically. The platform will allow all Owners to hear the proceedings, substantially concurrent with the proceedings and to comment, in accordance with meeting policy. The schedule of routine Board and Committee meetings will be published on the Association's calendar. Notice of special meetings of the Board of Committees shall be sent by Management via email and with posted notices at the community center.
- C. Owners will be required to validate their ownership before being able to attend the meeting.

D. There will be typically be no physical meeting location, and the location of the meeting will be virtual, unless otherwise determined by the Board.

E. Meeting Conduct

a. Board and Committee meetings are for the Board or Committee to discuss the Association's business matters. The Board may adopt any other rules or regulations as is appropriate for the electronic meeting or platform consistent with the requirements of the Governing Documents and Federal and Virginia laws.

During any meeting of the Board, non-Board residents in attendance will be required to mute their microphone or other speaking ability during all times other than during resident open session or forum, when actively acknowledged by the Board or other meeting moderator as having a turn to speak or address the meeting.

b. When the Board enters executive session, owners/residents will be moved to a virtual waiting room or otherwise removed from the electronic meeting platform for the duration of executive session. They may return to the open session meeting after the Board or committee exits executive session.

Conducting Business with the Association Without Use of Electronic Means

A. This Resolution identifies in Section I how Owners may conduct business in advance of a meeting of the members without using electronic means (paper ballots and proxies)

B. If the above method does not fulfill an Owner's needs, for all meetings being conducted using electronic means, the Owner should contact the Association staff during regular business hours of their desire to participate in the meeting or may email or mail their request in writing. The Association staff, after consulting with the President of the Association, will usually make the Community Center available for the Owner(s) to attend and participate in the meeting. Other sites may be used if needed.

C. The Association will provide, set up, and manage any equipment that is needed. Requests for accommodation at the Community Center need to be timely. They must be received at least five (5) business days before a scheduled meeting occurs. Requests received with shorter time periods are not assured of being honored.

I hereby certify that this Policy Resolution was adopted and approved by the Board of Directors at a regular meeting on September 21, 2021. The effective date of this Policy Resolution is September 21, 2021.

NEWINGTON FOREST COMMUNITY
ASSOCIATION, INC.

By: _____
Tina L. Ward, President