

## Step 5: Once Elected

Once Elected: Members of the board take office immediately. The new executive board then determines officer positions at a meeting of the executive board. Unless the governing documents provide otherwise, officers of the association are not required to be units' owners. Officers (president, secretary, treasurer) carry out the duties assigned to them in the bylaws.

Each member of the executive board SHALL, within 90 days of appointment or election, certify in writing on NRED Form 602 that he or she has read and understands the governing documents of the association and provisions of NRS 116 to the best of their ability.

If the association has a community manager, the manager shall provide each new member of the board a copy of the management agreement within 30 days of election/ appointment.

## Removal Elections

A removal election may be called by 10% of unit owners who sign and submit a written petition by mail, return receipt requested, or serve the executive board or community manager with the petition by process server.

The petition should include the date, names and addresses of all signatories (names should be printed and signed for verification). Between 15 and 60 days after the date on which the recall petition is received by the association, secret written ballots and return envelopes must be mailed to each unit owner. Unit owners must be provided with at least 15 days to return the ballot to the association.

No later than 90 days after the date on which the petition was received, the executive board shall hold the special meeting/removal election to open and count the secret written ballots.

## State of Nevada



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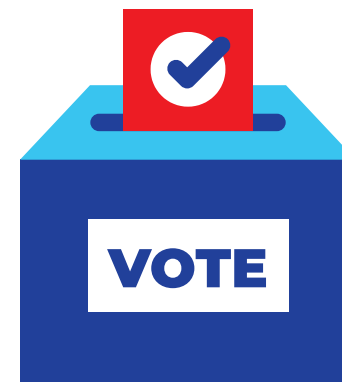
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# Understanding HOA Elections



## The Elections Process

In a Common -Interest Community (CIC), following termination of declarant control, unit owners vote for a board of at least three directors, all of whom must be unit owners.

Once on the board, members have a fiduciary duty to act on an informed basis, in good faith and in the honest belief that their actions are in the best interest of the association.

**TO BEGIN:** Each association must hold its election at a meeting of the units' owners held at least once each year at a time and place stated in or fixed in accordance with the bylaws. The bylaws:

- provide the number of members of the executive board and titles of officers of the association (president, treasurer, secretary, etc.);
- specify the powers, duties, terms of office and manner of electing, removing and filling vacancies of positions on the board; and
- provide procedural rules for conducting elections.

# Eligibility Requirements

The term of office of a member of the executive board may not exceed 3 years, except for members who are appointed by the declarant. Terms exceeding 1 year must be staggered so that generally an equal number of directors are elected each year. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve.

## The Elections Process

**Step 1—Initial Notice:** The bylaws determine when the annual meeting/election is to be held. At least 45 days prior to that date, written notice must be sent to all unit owners including:

- 1. An explanation of the Duly Elected process and the board's intent to use or not**—If the number of candidates is less than or equal to the number of vacancies, no election will be held and Disclosure Statements will go out in the next regular mailing of the association.
- 2. Statement of eligibility:**
  - o *You must be a unit owner;*
  - o *You cannot reside in a unit with, be married to, domestic partners with, or related by blood, adoption or marriage to another person who is also a member of the board (exception excluded);*
  - o *You cannot stand to gain any personal profit of any kind from the association; You cannot be the community manager for the association, nor can you be related to the community manager by blood, adoption, or marriage.*
- 3. Disclosure Statement; nominees must disclose:**
  - o *Any actual or perceived conflict of interest (financial, business, professional or personal relationship); and*
  - o *If they are in good standing, meaning that they have no unpaid assessments or construction penalties due to the association.*

### Step 2—Campaigning (Optional)

- An association shall not adopt any rule or regulation that has the effect of prohibiting or unreasonably interfering with candidates in their campaign for election, however a candidate's campaign may be limited to 90 days before the date that ballots are required to be returned to the association.
- A candidate MAY request that the board send, at the association's expense, to the designated mailing address of each unit, a Candidate Informational Statement, which (1) must be no longer than a single typed page; (2) must not contain any defamatory, libelous or profane information; and (3) may be sent with the secret ballot or a separate mailing (vs. the Disclosure Statement which MUST be sent with the ballot).
- If a candidate wishes to communicate campaign material directly to unit owners, the association may provide, upon request, a list of mailing addresses for each unit which must not include any names (charges may apply). The candidate must affirm in writing that the list will only be used for election purposes.



### Step 3—Preparing & Mailing the Ballots:

If, after all nomination forms/disclosure statements are returned, there are more candidates than vacancies (or the Duly Elected process is not being used), an election will be held.

The names of eligible nominees will be placed on the secret written ballot and nominees' Disclosure Statements will be mailed with the ballot to each unit owner.

The ballot should:

- Describe the number of vacancies to be filled;
- If the declaration allows for cumulative voting, explain the fact that each voter is allowed as many votes as there are candidates and he or she may give all votes to one candidate or varying numbers to several [NRS 116.2107(4)(b)]; and
- Specify the time, date and method by which a ballot must be delivered to the association to be counted.

## Three Envelope System

The secretary or other officer specified in the bylaws shall cause a secret written ballot and return envelope to be sent, prepaid by U.S. mail, to the designated mailing address of each unit.

A 3-envelope system can be used to track receipt of the ballot and maintain confidentiality (see The 3 Envelope System). There is no statutory requirement that an association provide for or pay for postage for any return ballot (Division Advisory Opinion 10-01).

Each unit owner must be provided with at least 15 days after the date the secret written ballot is mailed to return the ballot to the association.

## Counting the Ballots

### Step 4—The Election:

- Ballots are to be opened and counted in plain sight at the annual meeting of the units' owners.
- A quorum is not required to be present.
- Incumbent members of the executive board and each person whose name is on the ballot may not possess, be given access to, or participate in the opening or counting of the secret written ballots before those ballots have been opened and counted (may use neutral 3rd party).
- Only secret written ballots returned to the association may be counted (no quorum necessary to decide outcome).
- Tallies are taken and ballots and identifying envelopes are placed into piles to become association record.
- Except as otherwise provided in the declaration or bylaws, a ballot is not revoked after delivery to the association by death, disability or attempted revocation by the person who cast that vote (NRS 116.311).
- Any persons who knowingly, willfully and with fraudulent intent alter the outcome of an election may be found guilty of a category D felony (NRS 116.31107 & NRS 193.130).