

Can Our Community Association Still Hold its Annual Meeting?

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For many community associations, the first quarter of the year signals the time to notice and hold annual meetings of their membership.

For a better understanding of what a community association is all about, please check out Unwrapping the Riddle: What is a Community Association.

However, because of the COVID-19 pandemic, a restriction on "mass gatherings" is in place in North Carolina. North Carolina Governor Cooper's most recent restriction on mass gatherings, as provided for in Executive Order 181, prohibits a convening of more than ten (10) people indoors and more than fifty (50) people outdoors. This coupled with Executive Order 188, the extension of the modified Stay at Home Order, certainly makes it challenging for many community associations to safely and legally hold their annual meeting.

Fortunately, Governor Cooper, in Executive Order 136 on April 24, 2020, authorized community associations to hold annual meetings virtually for a limited time period. This authorization has been extended several times. It was most recently extended on December 31, 2020, in Governor Cooper's Executive Order 185, which gives associations the ability to hold virtual annual meetings of their membership until March 1, 2021. However, pursuant to Executive Order 136, the following requirements must be met by an association holding a virtual annual meeting:

- The association must send formal notice, including the date, time, and "location", of the annual meeting to its members. The "location" may be a virtual meeting platform such as Zoom, GoToMeeting, Microsoft Teams, etc.
- The association members will have the right to attend the meeting by means of remote communication.
- The association members must be given the opportunity to vote on any matter considered during the meeting.
- Voting cannot be done by raising a hand or by voice when the meeting is virtual. Voting must be done by a written ballot sent to those present at the virtual meeting.

Further, when any annual meeting is carried out pursuant to Executive Order 136, then:

- any party authorized to preside over the members' meeting normally held in a physical location is permitted to preside over the members' meeting held remotely; and
- the "location" of the meeting will include the method of remote balloting.

Conversely, the association's board may, at its discretion, decide to hold the annual membership meeting in person and limit the number of in-person attendees. In such event, the board must allow any member to attend the meeting virtually, preferably through the virtual meeting platform.

In conclusion, though we are entering a new year, we still face the challenges of conducting business during the COVID-19 pandemic and under Governor Cooper's executive orders, which limit mass gatherings. Such limitations can complicate a community association's ability to conduct its annual membership meeting at its designated "location", but the temporary ability to hold annual meetings virtually is a big help. This permissive authorization is currently extended until March 1, 2021, and subject to additional extensions.

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