

# WILLOWBROOK HOMEOWNERS ASSOCIATION

## POLICY RESOLUTION NO. 2021-1

### GUIDELINES FOR ELECTRONIC MEETINGS, VOTING AND NOTICE

**WHEREAS**, pursuant to Article VIII, Section 1(b) of the Bylaws of Willowbrook Homeowners Association (“Bylaws”), the Board of Directors (“Board”) of the Willowbrook Homeowners Association (“Association”) may “[e]xercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-laws, the Articles of Incorporation, or the Declaration”;

**WHEREAS**, Section 55.1-1819 of the Virginia Property Owners’ Association Act (“POA Act”) provides that the Board may establish, adopt and enforce rules and regulations pertaining to areas of Association responsibility and Article IV, Section (e) of the Association’s Articles of Incorporation provide that the Association has the power to exercise “any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Law of the State of Virginia by law now or hereafter have or exercise”;

**WHEREAS**, effective July 1, 2021, Sections 55.1-1815, 55.1-1816 and 55.1-1832 of the POA Act were amended to facilitate holding electronic meetings and allowing electronic voting and voting by absentee ballot, provided that the Board adopts guidelines for the use of electronic means for meeting and voting consistent with the POA Act;

**WHEREAS**, Section 13.1-844.2 of the Virginia Nonstock Corporation Act provides that members of the corporation may participate in meetings of the members by means of remote communication to the extent the board of directors authorizes said participation and adopts related guidelines and procedures for remote participation;

**WHEREAS**, Section 55.1-1815(G) of the POA Act provides that notice of Association meetings may be sent by email to Owners who have elected to receive such notice by email; and

**WHEREAS**, the Board has determined that it is in the best interests of the Association to adopt guidelines for using electronic means for meetings, voting, and for sending Association meeting notices by email to Owners.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board of Directors hereby adopts as part of the Association’s Rules and Regulations the following guidelines, policies and procedures for using electronic means for meetings of the Association’s Board of Directors, Committees, and members, voting, and for sending Association meeting notices by email to Owners (“these Guidelines”).

#### **I. Conflict with Other Rules / Definitions.**

- A. **Conflict with Other Rules.** If there is an irreconcilable conflict between these Guidelines and any provision of previously-adopted Rules and Regulations

(including any policies and procedures previously adopted by the Board), these Guidelines control when applied to meetings held through electronic means, to electronic voting, or to owners authorizing email notices.

- B. **Defined Terms.** Unless otherwise defined in these Guidelines, the capitalized words used in these Guidelines have the same meanings as defined in the Association's Declaration and Bylaws or, if not defined in the Declaration or Bylaws, then as defined in the POA Act.

## II. Sending Association Meeting Notices by Email / Owner Opt-In.

- A. **Methods for Sending Association Meeting Notices.** By default, notices of annual and special meetings of the Association are sent by U.S. mail to all Owners at their address of record as listed in the Association's records. However, the Board may authorize the Association's management agent ("Managing Agent") to send Association meeting notices by email to those Owners who have opted into receiving email notices from the Association. *However, if an email notice is returned as undeliverable, the Managing Agent must subsequently send meeting notices to that Owner by U.S. mail.*
- B. **Opting Into Receiving Email Notices.** Attached as **Exhibit A** to these Guidelines is the form titled "Consent to Use Email for Electronic Notices, Meetings and Voting" that should be used by Owners to authorize the Association to use the Owner's email for Association meeting notices and other official purposes. Alternatively, an Owner may submit a letter or email to the Managing Agent stating that the Owner authorizes the Association to send Association notices by email – if such a letter or email is sent (rather than using the Exhibit A form), then that Owner's letter or email will be deemed to incorporate the content of the Exhibit A form. *By providing the Association with a designated email address for electronic notice purposes, the Owner is deemed to also be designating that same email address for purposes of electronic meetings, voting and all other official purposes (unless the Owner specifically designates a different email address for electronic meetings and voting).*
- C. **Opting Out of Receiving Email Notices.** After an Owner opts into receiving email notices per subsection B above, the Owner may subsequently revoke that consent by submitting a letter or email to the Managing Agent specifically revoking that Owner's consent to receive email notices from the Association at the stated email address. *By revoking consent to receive email notices per this subsection C, the Owner is also deemed to revoke use of that same email address for electronic meetings, voting and other purposes (unless the Owner specifically states that the Owner's email address will still be used for electronic meetings and voting).* Notwithstanding the foregoing, Owners may provide notice of a change in their email address, which acts to revoke use of the prior email address.

## III. Board Authorization of Electronic Meetings.

- A. **Electronic Meetings (“E-Meetings”).** All meetings of the Board of Directors, authorized Committees and the Association will be held entirely or partially by electronic means in accordance with these Guidelines (referred to as “*E-Meetings*”), with all attending Directors, Committee members and Owners being able to participate, hear and be heard at such meetings in real time.
1. Choosing the Meeting Method. The authority to decide whether particular meetings will be held through electronic means in accordance with these Guidelines or, instead, entirely through the traditional means of in-person attendance at the physical meeting location, or held partially (rather than entirely) by electronic means is as follows: (i) the Board, for Board meetings and meetings of the Association’s members, and (ii) the Committee, for meetings of that Committee, unless otherwise mandated by the Board per Section C below.
- B. **Hybrid Option.** When a meeting is held using electronic means, that meeting can be held partially (rather than entirely) by electronic means – this type of E-Meeting is referred to in these Guidelines as a “*Hybrid Meeting*.” Hybrid Meetings provide an option to attend by authorized electronic means, but must have a physical meeting location to allow for at least limited in person attendance.
1. In-Person Attendance at Hybrid Meetings. At all Hybrid Meetings:
    - a. At least one Board member or a Managing Agent representative (or at least one Committee member for Committee meetings) must be physically present at the meeting location. Typically, the presiding officer (or “chair”) will be physically present at the meeting location to best facilitate the meeting, but this is not mandatory.
    - b. In-person physical attendance at the meeting location must be allowed for those authorized to attend the meeting who do not have the capability or desire to attend by electronic means (subject to reasonable occupancy limits due to the fire code or other health or safety purposes).
    - c. Depending on the circumstances, those persons choosing to physically attend a Hybrid Meeting may be observing and participating in the meeting primarily through electronic means at the meeting location, particularly if the majority of attendees (such as the Directors or Committee members) are attending virtually.
  2. Log-In or Call-In information for Hybrid Meetings. Prior to the meeting date, a Board (or Committee) member or the Managing Agent will provide the online link and access code necessary to connect to the Videoconference Platform (or, if applicable, the phone number and access code needed to

connect to the telephone conference call). *For Board and Committee meetings*, this information may be published in the same manner as the meeting notice is published, so that it is reasonably calculated to be available to a majority of the Owners. Notwithstanding the foregoing, the access link may be provided after the official meeting notice is given.

3. Association Representative's Duties. Those authorized representatives of the Association physically present at the meeting location are responsible for (i) handling meeting registration for those physically attending at the meeting location and (ii) attempting to resolve any issues that may occur at the meeting location impacting the electronic means being used for the meeting (such as ensuring the presence of an adequate speaker or other electronic device so that those physically present can hear or view the meeting proceedings). In the case of an Association meeting at which directors are being elected, the presiding officer is to appoint two or more inspectors of election from among those persons physically present at the meeting location (one of whom may be the Managing Agent).

C. **Board Authority to Change Meeting Method**. If the Board determines that these Guidelines are not being followed, that there are too many technical difficulties, or that holding a meeting by the Videoconference Platform is not in the best interests of the Association, the Board may change the method by which meetings (or particular meetings) are held as follows:

1. The Board may decide that a *Board, Committee, and/or Association meeting(s)* must be held entirely in person at the physical meeting location (with no person officially attending the meeting through electronic means); or
2. The Board may decide that a *Board, Committee, and/or Association meeting(s)* must be held as a Hybrid Meeting allowing attendance by traditional telephone (audio only) conference call rather than through the Videoconference Platform; or
3. The Board may decide that a *Board, Committee, and/or Association meeting(s)* must allow attendance by traditional telephone (audio only) conference call rather than through a videoconference platform.

D. **Owner's Reasonable Alternative for 100% Virtual Meeting**. 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. For E-Meetings that are planned to be held entirely through electronic means, if a Unit Owner needing to conduct business with the Association at that E-Meeting cannot (or desires not to) conduct business by electronic means at the

meeting, then at least 10 days prior to that E-Meeting or, if later, upon viewing the meeting notice, the Owner must notify the Managing Agent in writing of such circumstances so that a reasonable alternative can be discussed and made available. For Association meetings, a reasonable alternative may be for that Owner to appoint a proxy who can participate through electronic means. For Board or Committee meetings, a reasonable alternative may be for that Owner to submit written comments in advance of the meeting.

- IV. **Quorum at E-Meetings.** Those Owners (or their appointed proxies), Board or Committee members who are attending their meeting by authorized electronic means are deemed to be present at that meeting for all purposes, including for establishing quorum and for voting purposes, just as if they were physically present at the meeting location.
- V. **Quorum at Hybrid Meetings.**
- A. **Board and Committee Meetings.** Those Board (or Committee) members who are either (i) physically present at the meeting location or (ii) remotely attending by authorized electronic means are deemed to be legally present for quorum and voting purposes.
- B. **Association Meetings.** Those Owners (or their appointed proxies) entitled to cast votes who are either (i) physically attending at the meeting location or (ii) verified to be remotely attending through the Videoconference Platform are deemed to be present for quorum and voting purposes and for otherwise participating in the meeting during appropriate times.
- VI. **Use of Videoconference Platform.** Whether for authorized Hybrid Meetings or 100% electronic meetings, the following procedures and requirements apply when using a Videoconference Platform:
- A. **Videoconference Platform.** The Videoconference Platform must be set up in a manner that:
1. Implements reasonable measures to verify that each person accessing the meeting is authorized to do so, such as requiring prior registration for the meeting and providing authorized attendees a unique identifier number, verification code, password or link to enter the meeting as a means to authenticate the attendee's identity; However, the Board or other authorized representative operating the meeting may implement alternate means of confirming attendee identification during a meeting if said means can reasonably verify the attendee's identity;
  2. Implements reasonable measures so that persons entitled to participate in the meeting have an opportunity to do so, allowing those remotely attending the meeting to participate, hear and be

heard at such meeting in accordance with applicable law;

3. Allows the meeting to be held in reasonable compliance with these Guidelines;
4. Allows for one or more Association-authorized meeting “hosts” to be designated by the Association for purposes of having access to the control panel for the meeting (such as for muting and unmuting attendees, controlling the screen view, removing unauthorized persons, etc.); and
5. Implements reasonable data security protocols.

**B. Technical Requirements for E-Meeting Platforms and Effect of Malfunctions.**

Any Board, Committee or Association meeting conducted as an E-Meeting (whether as 100% electronic meeting or a Hybrid Meeting) must use either of the following: (1) a Board-approved internet-based videoconference system with integrated audio capability (such as GoToMeeting® or Zoom®); or (2) a traditional telephone (audio-only) conference call as described below. For purposes of these Guidelines, both of these approved electronic means for holding E-Meetings are referred to as an “E-Meeting Platform;” and the applicable Board-approved videoconference system is referred to as the “Videoconference Platform.” Each person attending remotely through electronic means is responsible for his or her own audio and internet connections; no vote or other action at the meeting will be invalidated on the grounds that the loss of, or poor quality of, a person’s connection prevented participation in the meeting.

**C. Log-In.** The Managing Agent, Board member or Committee Member responsible for scheduling and setting up the meeting in the Videoconference Platform will do so in a manner that allows log-in to begin at least 10 minutes before the convening of the meeting. Persons attending remotely must truthfully identify themselves as required to log into the Videoconference Platform. Persons may be kept in a different electronic meeting room until just prior to the convening of the meeting and until their authorization to attend the meeting is verified by the Association.

**D. Forced disconnections.** The presiding officer/chair of the meeting may cause or direct the disconnection or muting of a person’s connection if it is causing undue interference with the meeting or if the person is disrupting the meeting and refuses to comply with these Guidelines or applicable meeting protocols. This same process may be used for those meetings using a traditional telephone conference call.

1. Executive Sessions. For Board and Committee meetings, the Association may use a different electronic meeting room or conference call line, or separate videoconference session, to facilitate holding an executive (closed) session during the meeting.

E. **Speaking at the Meeting.**

1. Advance Sign-Up. Owners wishing to speak during the designated Owner comment part of the agenda for a Board or Committee meeting, or wishing to speak on an agenda item during an Association meeting, are encouraged to sign up in advance of the meeting (per instructions provided in advance of the meeting). *Owners who timely sign up in advance of the meeting will be given first priority by the meeting's chair to speak for their allotted time period during the applicable part of the meeting agenda; time permitting, other Owners will then be recognized to speak by the chair.*
2. Recognition by the Chair. To facilitate allowing attendees to seek recognition by the presiding officer/chair, the Videoconference Platform may be set up so that a member can physically raise their hand, electronically "raise" their hand, and/or electronically send a message requesting to speak.

F. **Video display.** If possible, the video feed of the presiding officer/chair of the meeting will be displayed throughout the meeting, and the video of the person currently recognized to speak or report will be displayed.

G. **Recording of Meeting.** The same Rules and Regulations applicable to recording meetings while present at the physical meeting location also apply to recording Hybrid Meetings and 100% electronic meetings.

H. **Voting.**

1. Board and Committee Meetings. Voting will be by voice vote or by audible roll call unless a different method is approved by majority vote of the Board (or Committee, if applicable).
2. Association Membership Meetings. Unless otherwise determined by the Board, only those Owners who are attending remotely in person or by proxy will be voting through the Videoconference Platform (or separate electronic voting service if selected by the Board) – whether through a show of hands, by voice vote, or by casting a ballot using electronic means ("E-Voting"). *See Section IX below for additional information pertaining to voting.*

VII. **Use of Telephone (Audio-Only) Conference Call.** If a traditional telephone (audio-only) conference call is used for a *Board or Committee meeting* (rather than the Videoconference Platform), the following procedures and requirements apply:

A. **Audio Equipment.** The audio equipment must be sufficient for any Board (or Committee) member in attendance to hear what is said by any other member participating in the meeting who is not physically present.

- B. **Arrival announcements.** Any person who participates in the meeting by phone must announce themselves at the first opportunity after joining the telephone conference call, but may not interrupt a speaker to do so.
- C. **Departure announcements.** Any person participating by phone who is leaving the telephone conference call before the meeting's adjournment must announce their departure before disconnecting, but may not interrupt a speaker to do so.

VIII. **Confirmation of Attendee's Identity.** The Association will take reasonable measures to implement log-in and electronic attendance protocols that will allow the Association to verify that the persons attending electronically are authorized to attend the meeting. The Association may use a different electronic meeting room to temporarily place persons until they can be sufficiently confirmed to be an authorized attendee.

A. **Identify Confirmation After Log-In or Call-In.** If requested by the meeting's chair, the Managing Agent or other designated meeting "host," any person attending the meeting through electronic means must identify themselves with their name and other information sufficient for the applicable Association representative to confirm that they are authorized to attend the meeting.

- 1. If the individual refuses to provide the requested information after being requested, then the meeting's chair will remove, or cause the removal of, that individual from the meeting.

IX. **Method of Voting at Association Meetings.** Unless otherwise determined by the Board, voting is conducted either in person or by proxy at Association meetings. The Board may, at its discretion, specify additional or other methods of voting, including, for example, voting electronically ("E-Voting") or by mail-in or electronic absentee ballot.

A. **Electronic Voting (E-Voting).** If the Board decides to use E-Voting (in whole or in part), the E-Voting System must comply with the applicable requirements of the POA Act and the Va. Nonstock Corporation Act. The Board has the authority to select a third-party vendor to provide the E-Voting system for use by the Association. In addition to or instead of casting votes electronically through E-Voting, the Board may have the E-Voting vendor provide a mechanism for Owners to appoint proxies through electronic transmission, using an electronic signature in compliance with applicable law. The E-Voting vendor must submit to the Managing Agent reports confirming the votes and/or proxy appointments submitted through the vendor's system, and all such vote reports will be relied on for purposes of tabulating the total vote count for those cast through E-Voting. Unless otherwise determined by the Board, those physically attending at the meeting location will vote through traditional means rather than through E-Voting.

- 1. When using E-Voting (as described above):



- a. The Videoconference Platform or separate E-Voting service must create a record of the vote for the purpose of record keeping;
  - b. The electronic transmission of the vote must either set forth or be submitted with information from which it may be determined that the electronic transmission was authorized by the Owner or the Owner's proxy.
  - c. If the vote, consent, or approval is required to be obtained by secret ballot (such as for the election of directors), the electronic means must protect the identity of the voter. If the electronic means cannot protect the identity of the voter, another means of voting must be used.
- B. **Absentee Ballot.** For any Association meeting or other action requiring an Owner vote or approval, the Board may authorize voting by written absentee ballot ("Absentee Ballot") – either mail-in or through approved electronic means (or both). If voting by Absentee Ballot has been authorized, the Association shall provide an appropriate ballot reasonably identifying the matter being voted on, as well as a deadline by which the Absentee Ballot must be submitted. The Absentee Ballot must be submitted with sufficient information to confirm the identity of the person voting. If the Absentee Ballot is being submitted in the context of an Association Meeting, the persons voting by Absentee Ballot shall be deemed present for all purposes.
- X. **Owner Comment Period.** As with traditional in-person meetings of the Board or Committees, the meeting agenda for E-Meetings must include a time for Owners to comment on matters relating to the Association. During a special meeting or other meeting at which the agenda is limited to specific topics, the meeting's presiding officer may limit Owner comments to the topics listed on the meeting agenda. The Owner comment period will be conducted through appropriate means that allow those attending the meeting to hear others and be heard by others by the electronic means chosen to conduct the E-Meeting (including via audio or written "chat" functions).

EFFECTIVE DATE:

This Policy shall be effective upon the date it is adopted.

**Consent to Use Email  
for Electronic Notices, Meetings and Voting**

The undersigned, being an Owner of the below-listed Lot located within the Willowbrook subdivision and a member of the Willowbrook Homeowners Association (the "Association") hereby agree, acknowledge and consent to the following on behalf of myself and, if applicable, all other co-owners of my Lot:

1. I consent to receiving Association notices by email, including for Association meetings.
2. I designate the following email address for electronic notice purposes: \_\_\_\_\_  
[print email address]
3. By providing the Association with the above-designated email address for electronic notice purposes, I am also designating that same email address for all other official purposes, such as electronic meetings and voting if or when the Association uses electronic means for holding meetings or casting votes. For this purpose, I consent to the Association providing to the Association's selected third-party videoconference provider and/or electronic voting service provider my email address and other information reasonably necessary to enable the authenticated use of the electronic meeting and/or electronic voting service.
4. I understand that by consenting to receive notices by email, the Association will no longer be required to send me notices in most instances by U.S. mail unless and until I revoke my consent by submitting a letter or email to the Association's Managing Agent specifically revoking my consent to receive email notices from the Association. Also, if I revoke consent to receive email notices, I understand that I would also be revoking use of that same email address for electronic meetings, voting and other official purposes. *[note: applicable law still requires certain notices to be sent by U.S. mail, such as notices regarding violations of the governing documents]*
5. I understand that, given the nature of the internet and electronic transmissions and given that no internet or IT security system is infallible, the Association cannot guarantee that third parties will improperly gain access to my email, improperly use my email, or send me emails with viruses, malware, cookies or the like. Accordingly, by signing this consent form, I hereby release and waive any claim against the Association pertaining to such third-party actions to the fullest extent permissible under applicable law.

**I have read and agree to the above.**

Owner's Lot within the Willowbrook subdivision: \_\_\_\_\_

Owner's Signature: \_\_\_\_\_

Owner's Printed Name: \_\_\_\_\_

Date of Signature: \_\_\_\_\_