

THE HIGHLANDS COMMUNITY ASSOCIATION

ELECTION AND VOTING RULES

(California Civil Code Sections 1363.03 and 1363.04)

1. INTRODUCTION

These Election and Voting Rules (“Rules”) establish certain procedural rules for the successful management of membership meetings and implement the relevant provisions of the Association's Bylaws, the California Civil Code, and the California Corporations Code concerning membership elections and membership voting. In the event of any inconsistency between these Rules and the Association’s governing documents or California law, the inconsistency shall be resolved in a manner consistent with Civil Code Sections 1363.0.3 and 1363.04, or any similar successor statutes. These Rules shall become operative July 1, 2006.

2. EQUAL ACCESS

If any candidate or member advocating a point of view is provided access to Association media, newsletters, or Internet Web sites during a campaign, for purposes that are reasonably related to that election, equal access shall be provided to all candidates and members advocating a point of view, including those not endorsed by the Board, for purposes that are reasonably related to the election. The Association shall not edit or redact any content from these communications; provided, however, the Association shall not be responsible or liable for the content of any such communications, and the Association may include a statement in the communication specifying that the candidate or member, and not the Association, is responsible for the content.

Equal access to common area meeting space, if any, shall exist during a campaign, at no cost, to all candidates, including those who are not incumbents, and to all members advocating a point of view, including those not endorsed by the Board, for purposes reasonably related to the election.

3. USE OF ASSOCIATION FUNDS FOR CAMPAIGN PURPOSES PROHIBITED

Association funds shall not be used for campaign purposes in connection with any Association Board election. Funds of the Association shall not be used for campaign purposes in connection with any other Association election except to the extent necessary to comply with duties of the Association imposed by law. As set forth in Civil Code Section 1363.04, for the purposes of this section "campaign purposes" include, but are not limited to, the following:

A. Expressly advocating the election or defeat of any candidate that is on the Association election ballot.

B. Including the photograph or prominently featuring the name of any candidate on a communication from the Association or its board, excepting the ballot and ballot materials, within 30 days of an election, provided that this is not a campaign purpose if the communication is one for which subdivision (a) of Civil Code Section 1363.03 requires that equal access be provided to another candidate or advocate.

4. CANDIDATE QUALIFICATIONS AND NOMINATION PROCEDURES

Pursuant to Article V, Section 1 of the Association’s Bylaws, a person may serve as a director without being a Member of the Association. Pursuant to Article V, Section 6 of the Bylaws, the Board shall annually appoint an Election Committee to supervise nominations and the orderly and fair election of directors. The Election Committee shall consist of a chairman, who shall be a member of the Board, and two (2) other Members (who also may be members of the Board). The Election Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled, provided there are persons willing to be nominated. In addition, a candidate for election to the Board shall be entitled to nominate himself or herself for election by submitting his or her name as a candidate using the candidacy form prescribed by the Association, provided the form is received by the date prescribed. Nominations (including self-nominations) to be elected to the Board may be made from the floor of any meeting of the Members at which directors are to be elected; provided, however, only those who give their consent to be nominated may be nominated. “Write-in” candidates on the secret ballot are permitted; provided the “write-in” candidate provides to the Association his or her consent in writing to be nominated prior to the voting, or is present at the meeting to accept a nomination prior to the voting.

5. VOTING QUALIFICATIONS AND THE VOTING POWER OF EACH MEMBERSHIP

Each membership in good standing shall be entitled to one (1) vote per lot. In the case of election of directors, each lot is entitled to one (1) vote for each position to be filled on the Board of Directors, and each Member shall be entitled to cumulate votes in all elections for the Board of Directors, subject to the procedural requirements for cumulative voting set forth in the California Corporations Code. A Member whose membership rights are in suspension on the record date for voting is not in good standing and is not entitled to vote.

6. INSPECTORS OF ELECTION

In accordance with Civil Code Section 1363.03, the Board of Directors shall appoint either one (1) or three (3) independent third parties to serve as Inspector(s) of Election. An “independent third party” includes, but is not limited to, (a) a volunteer poll worker with the county registrar of voters, (b) a licensee of the California Board of Accountancy, (c) a notary public, (d) a member of the Association who is neither a director, a candidate for election as a director, nor related to a director or candidate for election as director, (e) a person who is currently employed or under contract to the Association for any compensable services, including, but not limited to, the Association’s managing agent or accountant. The Inspector(s) of Election shall perform the duties set forth below, and any other duties that may be prescribed or authorized by law, and shall sign a report or certificate evidencing the voting results. The decision of a majority of the Inspectors shall control.

A. Duties of Inspectors of Election:

1. Determine the number of memberships entitled to vote and the voting power of each;
2. Confirm the number of memberships represented at the meeting;
3. Confirm the existence of a quorum;

4. Determine the authenticity, validity, and effect of proxies and ballots;
5. Hear and determine all challenges and questions in any way arising in connection with the right to vote;
6. Count and tabulate all votes;
7. Determine when the polls shall close;
8. Determine the result of the voting;
9. Perform any acts as may be proper to conduct the balloting or election with fairness to all members.

7. SECRET BALLOT PROCEDURES APPLICABLE TO CERTAIN VOTING AND PROXY USE

Membership voting regarding assessments, election of members to the Board of Directors, amendments to the governing documents, and the proposed grant of exclusive use of common area pursuant to Civil Code Section 1363.07 (hereinafter “Secret Ballot Topics”) shall be conducted through secret ballot procedures in compliance with Civil Code Section 1363.03. The Association, in its discretion, may not distribute proxies in connection with Secret Ballot Topics, and the Inspector(s) of Election shall be entitled to invalidate any proxy or other document purporting to cast a Member’s vote used in connection with Secret Ballot Topics that does not comply with these Rules and applicable law, including the secret ballot procedures set forth in Civil Code Section 1363.03.

A Member may cast his or her vote on a Secret Ballot Topic in person at a meeting, provided the Member casts the vote using a secret ballot in compliance with Civil Code Section 1363.03. In the event the required quorum is not attained at an initial or adjourned meeting at which secret ballots will be used, and in the event the meeting is adjourned to another date, all secret ballots cast shall carry over until quorum is attained.

In instances where proxies are used, in order to be counted the proxy must (a) identify a proxyholder (who must be in attendance at the meeting for which the proxy is given), (b) contain voting instructions, and (c) be dated and signed by the Member in good standing giving the proxy. The Inspectors may disqualify a proxy that does not satisfy these requirements. Any instruction given in a proxy that directs the manner in which the proxyholder is to cast the vote must be set forth on a separate page of the proxy that can be detached and given to the proxy holder to retain. The proxy holder must cast the Member’s vote by secret ballot in accordance with any instructions the Member provides.

8. VOTING AND COUNTING OF BALLOTS/PROXIES

All votes shall be counted and tabulated by the Inspector(s) of Election in public at a properly noticed open meeting of the Board of Directors or at a properly noticed meeting of the members. Any candidate or other member of the Association may witness the counting and tabulation of the votes from a reasonable distance, as determined by the Inspector(s) of Election. Members may not interfere with the counting and tabulation of the votes, and the Inspector(s) of Election may order any person the Inspector(s) of Election determine to be interfering with the counting and tabulation of votes to leave the area. In

accordance with the holding of Chantiles v. Lake Forest II Master Homeowners Association (1995) 37 Cal. App. 4th 914, only the Inspector(s) of Election and the Association's legal counsel shall be permitted to inspect the proxies during the voting process in those instances in which proxy voting is permitted in order to protect the members' privacy rights.

No person, including a member of the Association or an employee of the management company, shall open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated.

A. Unless otherwise provided in the Notice of Meeting or the Ballot solicitation, as applicable:

1. The voting period for Secret Ballot Topics shall commence when the first ballot is mailed or delivered to an Association Member, and shall end at such time as the Inspector(s) of Election determine the polls close;
2. With respect to voting at membership meetings on topics other than Secret Ballot Topics, the voting period shall commence at the meeting at such time as the chairperson declares the voting period open and shall end at such time as the Inspector(s) of Election shall determine the polls close; and
3. With respect to voting through a mail-in ballot on matters other than Secret Ballot Topics, voting shall commence when the first ballot is mailed or delivered to an Association Member and shall end at such time as is specified on the ballot.

B. A ballot shall be irrevocable upon the Association's receipt of the ballot, and a Member's submission of a secret ballot shall be deemed to be the Member's presence at the meeting for purposes of determining the presence of a quorum at the meeting.

C. All questionable proxies and ballots are to be separated for a determination of validity by the Inspectors.

D. If the number of votes cast on a ballot or proxy exceeds the number of permissible votes, the ballot or proxy, for voting purposes, shall be invalid and shall not be counted, but shall be counted for quorum purposes only.

E. When a voting box for a candidate is "checked" or otherwise marked by a non-numerical symbol (e.g., an "X"), and it is the only box "checked" or marked, all of the member's votes shall be counted for that candidate. When fewer boxes are "checked" or marked by a non-numerical symbol on the ballot than the number of directors to be elected, the count shall be one vote per "check" or mark not to exceed the number of authorized votes.

F. If votes are cast on a proxy, but the Member failed to check the box indicating that the proxy is to be voted in accordance with the Member's instructions, the votes cast shall be counted as marked by the Member, provided there are no conflicting instructions on the proxy and the proxy is otherwise valid.

9. **ANNOUNCEMENT OF RESULTS/CUSTODY OF VOTING MATERIALS**

The results of the election shall be promptly reported to the Board of Directors of the Association and shall be recorded in the minutes of the next meeting of the Board of Directors and shall be available for review by members of the Association. Within 15 days following the election, the Board shall publicize the results of the election in a communication directed to all Members.

Unless otherwise stated in a writing signed by the Inspector(s) of Election, sealed ballots shall be returned to the Association's management company in accordance with the procedures set forth in the instructions mailed to the Members. Sealed ballots at all times shall be in the custody of the Inspectors of Election at the Association's management company or other location the Inspector(s) may designate in a writing signed by the Inspector(s), until such time the Inspector(s) transfer custody to the Association's management company, as the Association's authorized agent and custodian of records, in accordance with applicable law.

After tabulation of the ballots and transfer of the ballots to the Association, the Association shall store the election ballots in a secure place for no less than one year after the date of the election. Any request for a recount or other challenge to the election process, shall be initiated by written request to the Association and shall be conducted in accordance with applicable law and the Association's governing documents, and the ballots shall be made available, upon written request, for inspection and review by Association Members or their authorized representatives. Any recount of ballots shall be conducted in a manner that shall preserve the confidentiality of the vote and in accordance with applicable law.