

ELECTION RULES

THE PINES OF LA JOLLA HOMEOWNERS ASSOCIATION

The following rules are adopted to comply with the requirements of Civil Code section 5105 and shall apply to all elections in which members of the Association are entitled to vote. These rules do not apply to meetings of the Board of Directors or to votes of directors at such meetings.

1. Each member of the Association has one vote for each unit owned. Any instruction given in a proxy issued for an election that directs the manner in which the proxy holder is to cast the vote, shall 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 shall cast the member's vote, in accordance with the instructions in the proxy, by secret ballot. Cumulative voting is not permitted in elections for Board of Directors. (First Amendment to Bylaws)
2. The Association shall prohibit the denial of a ballot to a person with general power of attorney for a member, and such ballot shall be counted if returned in a timely manner.
3. The Board of Directors shall appoint either one or three inspectors of election for each election. If there are three inspectors of election, the decision or act of a majority shall be effective in all respects as the decision or act of all. Any report made by the inspector or inspectors of election is prima facie evidence of the facts stated in the report. The duties of the Inspector(s) shall be as follows:
 - A. Determine the number of memberships entitled to vote and the voting power of each.
 - B. Determine the authenticity, validity, and effect of proxies, if any.
 - C. Receive ballots.
 - D. Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.
 - E. Count and tabulate all votes.
 - F. Determine when the polls shall close.
 - G. Determine the tabulated results of the election.
 - H. Perform any acts as may be proper to conduct the election with fairness to all members in accordance with provisions of law and all applicable rules of the Association regarding the conduct of the election that are not in conflict with law.
4. Inspectors of elections shall not be members of the Board or candidates for election to the Board, nor related by blood or marriage to a member of the Board or candidate. An Inspector may be a member of the Association. An Inspector may not be a person or business entity or subdivision of a business entity who is currently employed or under contract to the Association for any compensable services other than serving as an inspector of elections. That is, the Association's property manager, accountant or other agent may not be appointed by the Board to act as such an inspector.
5. Elections regarding the following matters shall be held by secret ballot:
 - A. Selection of members of the Association Board of directors,
 - B. Amendments to the governing documents; and,
 - C. The grant of exclusive use of common area property to an individual owner.
 - D. Assessments requiring a vote pursuant to Civil Code.

6. The sealed ballots, signed voter envelopes, voter list, proxies, and candidate registration list shall at all times be in the custody of the inspector or inspectors of elections or at a location designated by the inspector or inspectors until after the tabulation of the vote, and until the time allowed by Civil Code section 5145 for challenging the election has expired, at which time custody shall be transferred to the Association. If there is a recount or other challenge to the election process, the inspector or inspectors of elections shall, upon written request, make the ballots available for inspection and review by an association member or the member=s authorized representative. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.

7. The date, time and place of elections and the times at which polls will open shall be determined by the Board and set forth in the notice of the election.

8. The qualifications for candidates for the Board of Directors shall be as set forth in the Governing Documents and as follows:

- A. candidate must be a member of Association at time of nomination
- B. candidate must have been a member of the Association for at least one year.
- C. a candidate, if elected, may not serve on the board at the same time as another person who holds a joint ownership interest in the same separate interest a the person and the other person is either properly nominated for the current election or an incumbent director.
- D. a candidate may be disqualified if that person discloses, or if the association is aware or becomes aware of, a past criminal conviction that would, if the person was elected, either prevent the association from purchasing fidelity bond coverage or terminate the associations existing fidelity bond coverage.

9. A person may not be disqualified from nomination, unless that person has been provided the opportunity to engage in internal dispute resolution (AIDR@) pursuant to Civil Code section 5900 et seq.

10. Association shall provide notice of the procedure and deadline for submitting a nomination at least 30 days before any deadline for submitting a nomination. Unless otherwise provided, the following are the procedures and requirements to become a candidate for election to the Board:

- A. A person who is qualified may, with the person=s consent, be nominated by the Board or Nominating Committee (if any), or may nominate himself or herself as a candidate for election to the Board of Directors.
- B. Nominations from the floor at the annual meeting are permitted. (Bylaws, Art V, sec 2)
- C. Write-in candidates are permitted for nominations from the floor only.

11. Any candidate or member advocating a point of view shall have equal access to the Association newsletter, and to any other Association media 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, but may include a statement specifying that the candidate or member, and not the Association, is responsible for that content.

12. Every candidate or member advocating a point of view shall have access to the common area meeting space, if any exists, during a campaign, at no cost, including candidates 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.

13. 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.

14. Ballots with two pre-addressed envelopes and instructions must be mailed to each member at least 30 days prior to the deadline for voting. The Association shall use all of the following procedures:

- A. A voter may not be identified by name, address, or unit number on the ballot.
- B. The ballot itself must not be signed by the voter.
- C. The ballot is to be inserted into an envelope (#1) which shall not identify the voter by name, address, or unit number.
- D. Envelope #1 shall be sealed by the voter and placed into a second envelope (#2) which is also to be sealed by the voter.
- E. In the upper left-hand corner of envelope #2, the voter shall print his or her name, address, and unit number that entitles him or her to vote.
- F. **Envelope #2 shall be signed by the voter.** If not signed, the ballot shall not be counted.
- G. Envelope #2 shall be pre-addressed to the inspector(s) of the election, and may be delivered by mail or hand.
- H. Envelopes #1 and #2 may be of different colors and different sizes (it is recommended that envelope #1 be a number 9 size envelope and envelope #2 be a number 10 size envelope).
- I. Ballots delivered to the inspector(s) may be withdrawn by the person submitting the ballot, and a substitute ballot cast, only until the polls are declared closed by the inspector(s).

15. All votes shall be counted and tabulated by the inspector or inspectors of election in public at a properly noticed open meeting of the Board of directors or members. Any candidate or other member of the Association may witness the counting and tabulation of the votes. 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. The tabulation process shall follow the following procedure:

- A. The inspector(s) shall verify the name on the outer envelope (#2) is that of a member entitled to vote. The inspector(s) shall verify the signature on the ballot to the satisfaction of the inspector and may compare the signature to any exemplar signature on file with the Association.
- B. The inspector(s) shall ensure that no more than one envelope has been received for any one unit. If more than one envelope has been received with respect to any unit, the inspector(s) shall determine which of the multiple ballots shall be counted. If the multiple envelopes show a postmark, the earliest postmarked envelope shall be counted.
- C. The inspector shall open #2 envelopes and remove envelope #1 therefrom, ensuring that no more than one (1) envelope #1 is contained within the outer envelope.

- D. The inspectors shall separate the #2 envelopes from the #1 envelopes. The #2 envelopes shall be set aside.
- E. Without opening the #1 envelopes, those envelopes shall be shuffled, deposited into a ballot box or otherwise manipulated so that the inner envelope (#1) can no longer be associated with the outer envelope (#2) in which they arrived.
- F. The inspector(s) shall next open the inner envelopes (#1) and shall remove the ballot from the envelope, ensuring that no more than one (1) ballot is contained within the envelope or removed therefrom. The inner envelopes may be set aside and discarded.
- G. The inspector(s) shall then tabulate the ballots and announce the results.
- H. The inspector(s) may require that members attending a meeting in person or by proxy vote on those matters which must be voted on by secret ballot (see # 4 above) by complying with the double envelope procedure set forth above or by such reasonable modification of that procedure as the inspector(s) deems reasonable [such as, for example, giving each member who attends a meeting in person who has not submitted a ballot using the double envelope procedure a ballot to be marked and deposited anonymously into a ballot box]. If ballots are allowed to be cast in person or by proxy at a meeting in secret without using the double envelope procedure noted above, the inspector(s) shall take such precautions as may be necessary to ensure that no member votes more than once on any matter.

16. Sealed ballots, signed voter envelopes, voter list, proxies, and candidate registration list shall be kept in the custody of the inspector(s) of the election or at a location designated by the inspector or inspectors until after the tabulation of the vote and until the time allowed for challenging the election under Civil Code section 5145 (one year) has expired, at which time custody of the ballots shall be transferred to the Association.

17. Election results shall be promptly reported to the Board and recorded in the minutes of the next meeting. The results shall be available for review by the members of the Association, and shall be publicized in a communication directed to all members within 15 days of the election.