

ESCONDIDO VIEW HOMEOWNERS ASSOCIATION OPERATING RULES FOR ELECTIONS AND VOTING

SECTION 1 - GENERAL

These operating rules ("Rules") shall apply to all items legally requiring a vote of the membership as required by Civil Code section 5100, and any amendments thereto, including but not limited to, elections of directors, votes to remove one or more directors, votes on assessments that legally require a vote, amendments of the governing documents, grants of exclusive use of common areas, and such other votes as the Board determines should be conducted by secret ballot.

SECTION 2 - RIGHT TO VOTE

2.1 As described in these Rules, votes may be cast by members either in person, by proxy, or by mail-in ballot. The Association may not deny a ballot to any person who is a member of the Association at the time the ballots are distributed.

2.2 The Association may not deny a ballot to any person who has the general power of attorney for a member of the Association. Any person with a general power of attorney for a member must notify the Association and provide a copy of a valid general power of attorney to verify the person's right to vote on behalf of the member. If a ballot from a person with a valid general power of attorney which has been provided to the Association returns a ballot within the timelines established for the return of all ballots, the ballot shall be counted. (Civil Code § 5105(g))

2.3 The Association shall retain a voter list which shall include the name, voting power, and either the physical address of the voter's Lot, parcel number, or both ("Voter List"). The mailing address for the ballot(s) shall be listed on the Voter List if it differs from the physical address of the voter's Lot or if only the parcel number is used. The Association shall permit members to verify the accuracy of their individual information on the Voter List at least thirty (30) days before the ballots are distributed. The Association or member shall report any errors or omissions on the Voter List to the Inspector(s) of Election who shall make the corrections within two (2) business days. (Civil Code § 5105(a)(7))

SECTION 3 - QUALIFICATION OF NOMINEES FOR DIRECTOR ELECTIONS

3.1 Only persons who are members of the Association may be a nominee for election. If title to a Lot is held by a legal entity that is not a natural person, the governing authority of that legal entity shall have the power to appoint a natural person to be a member for purposes of being a nominee for election to the Board.

3.2 No member may be a nominee if the member, if elected, would be serving on the Board at the same time as another member who holds a joint ownership interest in the same Lot and the other member is either properly nominated for the current election or an incumbent director.

3.3 No one who has been a member of the Association for less than one (1) year may be a nominee.

3.4 No member may be a nominee if that member discloses, or if the Association is aware or becomes aware of, a past criminal conviction that would, if the member was elected, either prevent the Association from purchasing the fidelity bond coverage required by Civil Code section 5806 or terminate the Association's existing fidelity bond coverage.

can request in writing that his/her form not be published as provided herein and the Association will honor any such request received prior to the date of publication of all forms if publication occurs.

4.5 Except as provided in Paragraph 4.4, no Candidate Nomination Form or other editorial or campaign material will be published in the Association's newsletter or other Association media.

4.6 The Board of Directors shall appoint a Nominating Committee consisting of a chairperson, who shall be a member of the Board of Directors, and two or more additional Members of the Association in accordance with the Bylaws. The Nominating Committee will perform its duties as outlined in the Bylaws and/or Association published Rules and Regulations. Note, however, that a member may nominate himself or herself as set forth in Paragraph 4.2, above, or Paragraph 4.7, below.

4.7 Nominations for election to the Board of Directors may also be made from the floor during the meeting of the membership or the Board. A nomination from the floor is not a condition for candidates to receive write-in votes.

SECTION 5 - USE OF COMMON AREA FACILITIES FOR CAMPAIGN PURPOSES

5.1 All candidates for election and other members may reserve a local meeting room or common area facility to conduct campaign activities or advocate a point of view on an election or balloting issue pending before the membership. All candidates and members will be provided an equal opportunity to reserve the Association's facilities for these purposes. Reservations can be made by contacting the management company. No fees will be charged to any candidate or member for reservation of any common area facilities to conduct campaign activities or advocate a point of view on an election or balloting issue pending before the membership. In the event a candidate or other member utilizes a local meeting room or facility that is outside of the Association, that candidate or member shall be responsible for any related costs. All candidates or members reserving the common area facility are asked to leave the facility in a clean and undamaged condition.

SECTION 6 - VOTING BY SECRET BALLOT

6.1 Pursuant to Civil Code section 5100, elections regarding the following topics must be conducted by double envelope secret ballots pursuant to Civil Code section 5115: Assessments legally requiring a vote, election and removal of directors, amendments to the governing documents, the grant of exclusive use of common area, or any other topic expressly identified in the Association's operating rules. The Board has the right to determine whether other topics requiring a membership vote will be conducted using double envelope secret ballots.

6.2 The Association shall provide general notice of all of the following at least 30 days before the ballots are distributed:

6.2.1 The date and time by which, and the physical address where, ballots are to be returned by mail or handed to the Inspector or Inspectors of Elections.

6.2.2 The date, time, and location of the meeting at which ballots will be counted.

6.2.3 The list of all candidates' names that will appear on the ballot.



6.4.4 Only the official ballots distributed by the Association will be counted. Unofficial ballots will not be counted.

6.4.5 If a candidate whose name is on the ballot withdraws before the ballots are counted, the election will continue to go forward. However, the votes cast for a withdrawn candidate will not be counted.

6.5 Ballots shall be counted at a membership meeting or open Board meeting. Subject to reasonable restrictions established by the Inspector(s) of Elections to prevent interference with or intimidation of the Inspector(s) during the tabulation of the ballots, any candidate or other member of the Association may witness the counting and tabulation of the votes. No person observing the tabulation of the ballots may communicate with, interfere with, or in any way attempt to intimidate, harass or abuse the Inspector(s) or other person counting the ballots or assisting the Inspector(s).

6.6 Except as provided above, 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.

6.7 The candidate(s) receiving the highest number of votes shall be elected. In the event of a tie vote between candidates for the last position on the Board, the candidates subject to the tie vote shall agree to another means of determining the winner of the vote, such as a coin toss or high card draw.

6.8 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 meeting and shall be available for review by members of the Association. Within fifteen (15) days of the election, the Board shall publicize the results of the election in a communication directed to all members or by posting it in the Common Area.

6.9 The Association election materials (returned ballots, signed voter envelopes, Voter List, proxies and the candidate registration list) will be retained by the Inspector(s) of Elections or the Inspector's/Inspectors' designee for one (1) year following the date the Inspector notifies the Board and the membership of the vote result unless the Inspector is notified of some challenge to the election after the notification of the election result. In this case, the Inspector or its designee shall retain these documents for one year from that later date. Thereafter, the Inspector(s) of Elections shall turn over those election materials to the Association or its designated agent. At the conclusion of the three-year period established by Civil Code section 5210, those election materials may, at the option of the Board of Directors, be destroyed.

6.10 The mailed secret ballots described in these Rules, once received by the Inspector(s) of Elections, will serve to establish a quorum at any meeting of members.

SECTION 7 - PROXIES

7.1 Voting by proxy will be permitted in accordance with the provisions of the Bylaws, although the Board of Directors need not prepare and distribute proxy forms with the election or voting materials. The Association will continue to honor proxies submitted in accordance with the Bylaws. Proxies submitted to and accepted by the Association must conform to the requirements of the law. Proxy holders will be given a secret ballot to complete. Proxies will not be counted as secret ballots.

8.6 The Inspector(s) of Elections may appoint additional persons to assist in performing any of the above duties. Any such persons shall meet the qualifications for appointment as an Inspector of Elections.

8.7 The Board of Directors shall have the authority to remove and/or replace an Inspector of Elections at any time if an Inspector resigns or whenever the Board determines that an Inspector will not be able to perform his or her duties impartially in good faith, to the best of the Inspector's ability, as expeditiously as is practical, and in a manner that protects the interests of all members of the Association, or if the Inspector ceases to meet the qualifications to serve as described above.

8.8 Inspector(s) of Elections shall have the authority to consult with the Association's legal counsel in the event of uncertainties in the interpretation or application of Civil Code section 5100 et seq., these Rules, the Association's governing documents or as might otherwise be necessary to ensure a fair election that complies with the law and the governing documents. All such consultations shall be protected by the Association's attorney-client privilege and shall be kept confidential from all persons other than the Board of Directors. Note, however, that neither the Inspector(s) of Elections nor the Association's legal counsel shall disclose to others, including the Board, how a particular ballot was cast.

SECTION 9 - RECALL ELECTIONS

9.1 To initiate the recall of one or more directors or the entire Board, the Board must receive a petition signed by at least twenty-five percent (25%) of the Association's Members calling for a special meeting for the recall election. The recall petition must also include the members' printed names and the addresses of their Lots for verification purpose. Pursuant to Corporations Code 7510(e), a vote for a recall may also be initiated by the board.

9.2 Upon receipt of a valid recall petition, the Board will promptly appoint an Inspector(s) of Elections.

9.3 Within twenty (20) days of the Board's receipt of a valid recall petition, the Board will notice the Members of and will set the time, date, and location of the special meeting to hold the recall election.

9.4 The special meeting must be held between thirty-five (35) and ninety (90) days of the Board's receipt of the petition.

9.5 Any recall election as well as any election for the replacement directors must be conducted by secret ballot according to Paragraph 6.1. In an effort to avoid recalled directors remaining on the Board until replacement directors are elected, the election for replacement directors will be held at the same time as the recall vote. As such, the members will vote on two issues: (i) the recall of directors, and (ii) the replacement of directors. The Inspector(s) of Elections will tabulate the votes on the replacement of directors immediately following the recall vote, if the recall is successful.

9.6 Generally, when there is a recall election, it is desirable and often necessary to include an election of replacement directors on the same ballot as the recall vote. If the recall election is successful in whole or in part, the Association cannot be left without a functioning Board until a later election can be conducted. Given the statutory notice requirements for an election as outlined in these Rules, if the election to fill any vacancies created by a removal vote is not conducted at the same time as the recall vote, the Association could be left without a Board to conduct the necessary and essential business of the Association potentially causing great harm to the Association.

any action to change the content of Civil Code section 5100 et seq., which would affect said Rules.

These Election Rules were adopted at a duly held meeting of the Board of Directors for Escondido View Homeowners Association on _____, 2020, and are now in effect.

Secretary

