

# XXX HOA Election Rules

ADOPTED BY THE BOARD 3/27/20

## XXX HOMEOWNERS ASSOCIATION ELECTION RULES

**Section 1.01. Purpose.** The purpose of these Election Rules is to establish Election Rules in conformance with the legal requirements of § 5105 of the Davis-Stirling Common Interest Development Act (the “Act”). The Act commences at Civil Code § 4000.

**Section 1.02. Voting Rights of Members.** No member may be denied a ballot for any reason other than not being a member at the time of distribution. If a person has a general power of attorney for a member, that person shall not be denied a ballot and the ballot shall be counted if returned in a timely manner.

**Section 1.03. Access to Association Media.** If any candidate or member advocating a point of view is provided access to Association media, newsletters, or internet websites 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.

**Section 1.04. Access to Association Common Area Meeting Places.** Any member of the Association shall have reasonable access to the Association's common area, at no cost, for purposes reasonably related to an election. This access shall be subject to approval of the Association and subject to availability, which approval shall not be unreasonably withheld.

**Section 1.05. Nomination Procedures for Candidates of the Board of Directors.** Any member of the Association may nominate themselves or may be nominated by another member as a candidate for a director's position, subject to the requirements for eligibility contained in the Governing Documents.

**Section 1.06. Qualifications for Candidates of the Board of Directors.**

A candidate will be disqualified as a nominee for any of the following reasons:

- 1)** At the time of nomination, the nominee is not a member;
- 2)** At the time of the nomination, the nominee has not been a member for one year or more;
- 3)** If elected, the person nominated would be serving on the board at the same time as another person who holds a joint ownership interest in the same separate interest parcel as the person and the other person is either properly nominated for the current election or an incumbent director;
- 4)** The nominee has a past criminal conviction that would either prevent the association from purchasing the fidelity bond coverage required by Section 5806 of the Civil Code, or would cause the termination the Association's existing fidelity bond coverage; or

**5)** At the time of nomination and at all times thereafter, each nominee (and all directors of the Association) must be current in the payment of regular and special assessments. A nominee shall not be disqualified under any of the following circumstances:

**a)** Nonpayment of fines;

**b)** Payments made under protest pursuant to Section 5658 of the Civil Code; or

**c)** The nominee has entered into a payment plan pursuant to Section 5665 of the Civil Code.

**Section 1.07.** Internal Dispute Resolution. The Association shall not disqualify a person from nomination if the person has not been provided the opportunity to engage in internal dispute resolution.

**Section 1.08.** General Voting Issues. The qualifications for voting and the voting power of each membership shall be as provided in the Bylaws. The authenticity, validity, and effect of proxies shall be as provided in the Bylaws, subject to all other applicable legal requirements. The voting period for elections shall be as set forth in any notice sent to the Members, subject to the requirements of the Bylaws. If secret ballots are required to be used under § 5100 of the Act, the polls shall open and close at the time and in the manner described in the notice sent to the members for that purpose and as determined by the election inspector(s).

**Section 1.09.** Election Inspectors. For all votes regarding: (i) the election of directors; (ii) assessments; (iii) amendments to the governing documents, not including rules; and (iv) the granting of exclusive use common area, the Association shall use inspectors of election to perform the duties described in § 5110 of the Act. For member voting with respect to all other issues, the board of directors may determine to use election inspectors,

but is not required to do so. The election inspector(s) may be assisted by one or more persons in the counting and tabulating of votes. The board of directors shall determine whether to use Members of the Association or a third (3rd) party as election inspectors, as follows:

**A. Members Inspectors.** If the board of directors uses members of the Association as election inspectors, the number of inspectors shall be three (3).

**B. Third Party Inspector.** If the board of directors uses a qualified independent neutral third (3rd) party as election inspector, the number of inspectors shall be one (1).

**Section 1.10. Qualification of Inspectors.** No person shall serve as an election inspector or assist the election inspector in performing duties if such person is a member of the board of directors, a candidate for the Board of Directors, or Related in the third degree to a member of the Board of Directors or a candidate for the Board of Directors. In the event an inspector or any person assisting the inspector becomes disqualified after selection, the inspector(s) shall relinquish their position and the board of directors shall select a replacement inspector. For purposes of this Section, "Related" means a spouse, parent, child, grandparent, grandchild, sibling, first cousin, aunt, uncle, or any of the above in relation to the inspector's spouse or by adoption.

**Section 1.11. Inspector Obligations.** In addition to all other obligations required by law, the inspector or inspectors of elections shall deliver, or cause to be delivered, at least 30 days before an election, to each member both of the following documents: 1) the ballot or ballots; and 2) A copy of the election operating rules. Delivery of the election operating rules may be accomplished by either of the following methods:

a) Posting the election operating rules to an internet website and including the corresponding internet website address on the ballot together with the phrase, in at least 12-point font: "The rules governing this election may be found here:" or

b) Individual delivery.

**Section 1.12. Applicability of any Amendment of the Election**

**Operating Rules.** The Election Operating Rules, or any amendment of the Election Operating Rules, shall not be effective as to any election conducted within 90 days of adoption.