

**HIDDEN CANYON ESTATES HOMEOWNERS ASSOCIATION**  
**ELECTION RULES AND PROCEDURES**  
*Adopted April 9, 2020*

The procedure set forth herein is pursuant to California Civil Code section 5105 for use by Hidden Canyon Estates Homeowners **Association** ("Association") at any time the Members of the Association are called upon to vote for the election of Directors, or on any other issue. All elections within the Association shall be governed by the following guidelines:

**1. Election Campaigns**

- a. The Association shall ensure that, 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 it may include a statement specifying that the candidate or Member, and not the Association, is responsible for that content.
- b. There shall be equal access afforded to common area meeting spaces 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.
- c. A meet-the-candidates night may be held where they will have equal opportunity to introduce themselves to the Members.
- d. Association funds may not be used for campaign purposes in connection with any Board election.
- e. Association funds will 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. Campaign purposes include, but are not limited to, the following:
  - i. Expressly advocating the election or defeat of any candidate that is on the election ballot.
  - ii. 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 thirty (30) days of an

election, provided that this is not a campaign purpose if the communication is one requiring that equal access be provided to another candidate or advocate.

## **2. Candidate Qualifications**

- a. Candidates must be a Member of the Association at the time of nomination.
- b. Candidate must be a natural person, not a corporation or a trust. A corporation or trust may be represented by the appointment of a natural person.
- c. Candidates for election to the Board of Directors shall be disqualified for any of the following reasons:
  - i. If a Member for less than 1 year at the time of nomination.
  - ii. If the Candidate discloses or the Association becomes aware of a past criminal conviction that either prevents the purchase of fidelity bond coverage or terminates the existing fidelity bond coverage should the person be elected.
  - iii. If the Candidate would be serving on the Board at the same time as someone else on title for their separate interest and the other person is properly nominated or an incumbent director.
  - iv. For failing to pay regular and special assessments. For the purposes of this ground of possible disqualification, regular and special assessments do not include fines, fines renamed as assessments, collection charges, late charges or costs levied by a 3rd party. A Candidate may not be disqualified for failing to pay assessments if they have either paid any disputed regular or special assessment under protest, or have entered into a payment plan. In addition, a Candidate may not be disqualified for failing to pay assessments if person has not been provided opportunity to engage in the Association's Internal Dispute Resolution process.
- d. Only votes for nominated candidates who have accepted the nomination prior to the tabulation of votes shall be counted.

## **3. Nomination Procedures**

- a. Candidate statement solicitation notices will be sent to the membership and shall include a deadline for receipt of those statements.

- b. Statements received must be no more 500 words. Any statement longer than 500 words may be truncated following the 500th word.
- c. Any candidate nominated by another person will be contacted to confirm his or her consent to run for election to the Board.
- d. Completed statements received by the deadline will be forwarded to the Inspector of Elections for review at which time the Inspector of Elections will determine whether the candidate meets the qualifications for candidacy as set forth above.
- e. Qualified candidates will then be included on the Candidate Registration list and the ballot that is mailed to the membership.
- f. Completed candidate statements that are received by the deadline may be re-typed and included with the ballot that is mailed to the membership. Incumbents may be identified by an asterisk on the ballot mailed to the membership.
- g. Self-nominations can occur through the use of the returned candidate statement. Nominations will close no later than sixty-one (61) days prior to the scheduled election, and the Association cannot accept any additional nominations after the close of nominations. Nominations from the floor are permitted if permitted in the Bylaws.

#### **4. Election Process**

- a. The number of directors who are scheduled to be elected and their respective terms shall be determined in accordance with the Association's governing documents and stated in the solicitation materials for the meeting.
- b. If more than one party is listed on title to a separate interest, only one Owner may submit his or her signed envelope to vote.
- c. The day before the day that the ballots are mailed to the membership shall be the record date for voting.
- d. The election shall be conducted annually within sixty (60) days of the anniversary month of the first annual election.
- e. In any election other than for Board of Directors Members may cast one vote per item to be voted on.
- f. In any election for the Board of Directors where more than two (2) directors are to be selected, to the extent (if any) permitted by California law, election to and

removal from the Board shall be by cumulative voting as prescribed in California Corporations Code Section 7615(b), subject to all applicable requirements of the California Corporations Code and California Civil Code. Each Member shall be entitled to vote, in person or by proxy, as many votes as such Member is entitled to exercise as provided in the Governing Documents multiplied by the number of directors to be elected or removed, and he may cast all of such votes for or against a single candidate or director, or such Member may distribute them among the number of candidates or directors to be elected or removed, or any two or more of them. The candidates receiving the highest number of votes up to the number of directors to be elected shall be deemed elected. As to removal, unless the entire Board is removed by a vote of the Members, an individual director shall not be removed prior to the expiration of its term of office if the votes cast against removal would be sufficient to elect the director if voted cumulatively at an election at which the same total number of votes were cast and the entire number of directors authorized at the time of the most recent election of the Board Member were then being elected.

#### **5. Member Obligation to Verify Voter & Candidate Registration List, Corrections**

- a. The association shall maintain a candidate registration list and a voter list. The voter list shall include name, voting power, and either the physical address of the voter's separate interest, the parcel number, or both. The mailing address for the ballot shall be listed on the voter list if it differs from the physical address of the voter's separate interest or if only the parcel number is used.
- b. The association shall permit Members to verify the accuracy of their individual information on both the candidate registration and voter list at least 30 days before the ballots are distributed.
- c. The Members shall report any errors or omissions on the voter list, in writing, to the inspector(s) of elections, who shall make any corrections within two (2) business days of the date reported.

#### **6. Inspectors of Election**

- a. Inspector(s) of election will be appointed annually by the Board at a Board meeting held prior to the distribution of election materials and shall serve as the Inspector of Elections for all elections until a new Inspector of Elections is Appointed by the Board.
- b. If there is an election or vote between annual elections of the Board, the Board may retain the Inspector(s) from the last meeting, or the Board has the authority to appoint different Inspector(s) at the Board's discretion.

- c. The Board may remove and replace any Inspector prior to the tabulation of votes for any reason.
- d. There shall be one (1) or three (3) Inspectors for any election. If there are three (3) Inspectors, the decision or act of a majority shall be effective in all respects as the decision or act of all.
- e. Inspector(s) may designate others, who are not candidates or the relations of a candidate, as assistants to facilitate the ballot counting process. Assistants will work under the direction of the Inspectors.
- f. Inspector(s) shall be independent third parties who are not currently employed by or under contract to the Association for any compensable services or a Member of the Association. The Board may retain a CPA or other professional of choice who is not otherwise under contract to serve as an Inspector at an additional expense to the Association.
- g. Inspector(s) or their designated assistants cannot be a Member of or candidate for the Board and cannot be related to a Member of or a candidate for the Board.
- h. Inspector(s) determine the number of Members entitled to vote and the voting power of each.
- i. Inspector(s) determine the authenticity, validity, and effect of proxies, if any.
- j. The Inspector of Elections shall deliver or cause to be delivered within thirty (30) days of an election the ballots and the current version of the Association's election Rules. Ballots shall be delivered via Individual Delivery pursuant to Civil Code section 4040. The current Association Election Rules shall be delivered either via Individual Delivery via Civil Code section 4040 or by posting the election rules to a website and including the web site address on the ballot with the phrase in 12-point font "The rules governing this election may be found here: \_\_\_\_\_."
- k. Unless the Inspector(s) designate a different location to receive ballots, the location to receive ballots will be the Association's management company's business office address.
- l. Inspector(s) hear and determine all challenges and questions in any way arising out of or in connection with the right to vote and the Inspectors' decision.
- m. All accounting and tabulations will be done in an open setting to allow Members to watch and listen. Members who are not inspectors cannot participate in such discussions.

- n. Inspector(s) count and tabulate all votes. All votes shall be counted and tabulated by the inspector(s) in public at a duly noticed Board or Member meeting.
- o. Inspector(s) determine when the polls shall open and close.
- p. Inspector(s) determine and announce the results of the election.
- q. Inspector(s) report the results of the election promptly to the Board, and the results are to be recorded in the next regular session Board meeting minutes.
- r. Inspector(s) perform any acts as may be proper to conduct the election with fairness to all Members in accordance with the Governing Documents.
- s. Inspector(s) perform all duties impartially, in good faith, to the best of his or her ability, and as expeditiously as is practical.

## **7. Ballot Rules**

- a. Each ballot shall contain the following:
  - i. In an election of directors, each candidate's name listed alphabetically or as drawn by lot.
  - ii. The identification of any other matter that is the subject of a pending Member vote.
  - iii. A statement of the required quorum.
  - iv. A statement that ballots must be received by mail no later than 5:00 p.m. on the business day prior to the day of the scheduled election. Notwithstanding the foregoing, Inspector(s), in their discretion, may accept ballots up to the time that counting of the ballots begins.

Failure to include any of the above shall not invalidate the ballot.

- b. Once a ballot is received, it is deemed irrevocable, even if it is still in an unopened envelope.
- c. If a Member loses his or her ballot, a new one can be obtained from the inspector(s) or from the Association's management company prior to the meeting. However, if a ballot is already on file from that Separate Interest, then no new ballot will be given.

- d. A Member, who signs or otherwise marks his or her ballot with an identifying mark, waives his or her rights to secrecy. The Association is not responsible for redacting personal information that is added to the ballots by a Member.
- e. Unmarked ballots may be counted toward quorum purposes only.
- f. The Inspector of Elections shall be prohibited from denying a ballot to a Member for any reason other than not being a Member at the time ballots are distributed. In addition, the Inspector of Elections shall be prohibited from denying a ballot to a person with a general power of attorney for a Member. The ballot of a person with a general power of attorney for a Member shall be counted if returned timely.

## **8. Tabulation Rules**

- a. Once received by the Association, the sealed ballots shall be in the custody of the inspector(s) or at a location designated by the inspector(s) at all times.
- b. Any candidate or other Member of the Association may witness the counting and tabulation of the votes. Members, who are not inspectors, must remain at least five (5) feet away from the counting area.
- c. Inspector(s) can cause the removal of any observer who interferes with or disrupts the counting or tabulation process.
- d. Any election that results in a tie shall be determined by the flipping of a coin or drawing of straws.

## **9. Post-Election Rules**

- a. In addition to recording the election results in the minutes of the next regular Board meeting, the Association shall keep annual meeting minutes that reflect the results of the election.
- b. The Board shall publicize the tabulated results of the election in a communication directed to all Members within fifteen (15) days of a successful (quorum-achieved) election.
- c. After the tabulation of the votes, the Inspector of Elections may direct the Association's managing agent to maintain all election materials until the time for challenge has expired. The Association shall maintain all election materials for a period three (3) years following the election.