

ELECTION RULES AND REGULATIONS

I. ELECTION REQUIREMENTS

A. The first major change is that procedures for elections will now become "operating rules" for your Association pursuant to **Civil Code § 1357.120(a)(7)**. The association must adopt and hereby adopts election rules that ensure the following:

1. Any candidate or member advocating a point of view, including those not endorsed by the board, will be provided **equal access** to association media, newsletters, or Web sites during a campaign, for purposes that are "reasonably related" to that election. The association shall not edit the content of these communications, but may include a statement specifying that the candidate or member, and not the association, is responsible for that content.
2. Access to the common area meeting space (if any exists), will be provided to all candidates at no cost, during a campaign, 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. Qualifications for candidates for the Board of Directors and any other elected position, and procedures for the nomination of candidates are hereby established as follows:
 - a. Candidates must be a voting member of the homeowners association;
 - b. Candidates must be in good standing and current on all association dues, assessments, fines, penalties, etc.
 - c. Any member of the association may nominate himself/herself.¹
 - d. Candidates must be an Owner
4. Qualifications for voting are hereby satisfied as follows:
 - a. The Association shall have one (1) class of voting memberships known as Class A.
 - b. Class A Members shall be all Owners and shall be entitled to one (1) vote for each Condominium owned by such Class A members.
5. The voting power of each membership is as follows:
 - a. Each Owner shall be entitled to cast no more than one (1) vote for each Condominium owned. Where there is more than one (1) record Owner of a Condominium ("co-owners"), voting shall be made in accordance with Article II Section 2.6 of the CC&R's.
6. The voting period for elections, including the opening and closing of the polls is as follows:
 - a. Voting polls shall be open at _____ a.m. and close at _____ p.m.
 - b. The location of the Polls and voting time(s) shall be posted no later than one month prior to elections

¹ A nomination or election procedure shall not be deemed reasonable if it disallows any member of the association from nominating himself or herself for election to the board of directors

ELECTION RULES AND REGULATIONS

- c. At the Annual meeting of the Members new Directors shall be elected pursuant to Article 4 Section 4.5 of the By-laws.

II. PROXIES

The Board of Directors hereby adopts the following Rules and Regulations pursuant to **Civil Code § 1363.03 (d)** which sets forth that 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 by **secret** ballot.

1. The authenticity, validity, and effect of the proxies is as follows:
 - a. Under the new law, the proxy must have a separate page which can be detached and given to the proxyholder to retain which shows the instructions given to the proxyholder by the member/proxygiver directing the manner in which the proxyholder must cast the votes (**Civil Code Section 1363.03 (d)**). Use of proxy as a ballot is no longer an acceptable practice.

III. INDEPENDENT INSPECTOR OF ELECTIONS

The association adopts the following methods of selecting one to three independent third parties as inspector, or inspectors, utilizing one of the following methods. (Choose one.)

- A. Appointment of the inspector or inspectors by the board.
- B. Election of the inspector or inspectors by the members of the association.
- C. Any other method for selecting the inspector or inspectors.

The association shall select an independent third party or parties as an inspector of election and includes but not limited to a volunteer poll worker with the county registrar of voters, a California licensed CPA, or a notary public. Note the Association recognizes that although an Independent third party **may be** a member of the association, he or she may **not** be a:

1. Member of the board,
2. Candidate for the board,
3. Relative to a member of the board or candidate for the board or
4. Person who is currently employed by or under contract to the association for any compensable services unless expressly authorized by rules of the association adopted pursuant to **Civil Code § 1363.03(a)(5)**

ELECTION RULES AND REGULATIONS

IV. INSPECTOR(S) DUTIES AND RESPONSIBILITIES

Pursuant to **Civil Code § 1363.03(c)(3)** the Inspector shall:

- 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 result of the election.
- H. Perform any acts as may be proper to conduct the election with fairness to all members in accordance with this section and all applicable rules of the association regarding the conduct of the election that are not in conflict with this section.
- I. Prior to the secrete ballots being mailed to all the owners, determine the location or person to whom the secrete ballots shall be returned (the "Ballot Collector"), which may be the Associations property manager.

The Association further recognizes that the inspector is also required to perform his or her duties impartially, in good faith, to the best of his or her ability, and as expeditiously as is practical. 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.

IV. SECRET BALLOT VOTING

A "secret" ballot process is hereby adopted by the Board of Directors for votes on assessments, selection of members of the Board, amendments to the governing documents, or grant of exclusive use common area. The Board of Directors further recognizes and adopts the following pursuant to **Civil Code §§ 1363.0(d), (e)** which requires that ballots:

1. Must be sent along with two preaddressed envelopes with instructions on how to return ballots.
2. Must be mailed by first-class mail or delivered by the association to every member not less than 30 days prior to the deadline for voting.
3. In order to preserve confidentiality, a voter **may not** be identified by name, address, lot, parcel, or unit number on the ballot.
4. The ballot itself is not signed by the voter, but is inserted into an envelope that is sealed. This envelope is inserted into a second envelope that is sealed.

ELECTION RULES AND REGULATIONS

5. In the upper left hand corner of the second envelope, the voter prints and signs his or her name, address, and lot, parcel, or unit number that entitles him or her to vote.
6. The second envelope is addressed to the inspector or inspectors of election, who will be tallying the votes. The envelope may be mailed or delivered by hand to a location specified by the inspector or inspectors of election. The member may request a "receipt" for delivery.

V. HANDLING OF BALLOTS

The association hereby adopts the following rules and procedures for handling ballots:

A. As secret Ballots are returned to the Ballot Collector, the Ballot Collector shall check off on a sign-on sheet that a ballot has been received for such unit/lot. The first secret ballot received for any unit/lot shall be the ballot which is counted.

B. The sealed ballots at all times shall be in the custody of the inspector(s) of election or at allocation designated by the inspector(s) until delivered to the inspector(s) at the meeting for the opening of the ballots and the tabulation of the vote. After counting the ballots and the certification of the vote results by the inspector(s) of election, the ballots shall be transferred to the Association.

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

D. After tabulation, election ballots shall be stored by the Association in a secure place for no less than one (1) year after the date of the election. In the event of a recount or other challenge to the election process, the Association shall, upon written request, make the ballots available for inspection and review by members or their authorized representatives. Any recount shall be conducted in a manner that shall preserve the confidentiality of the vote.

VI. COUNTING THE VOTES

The Association hereby adopts the following Rules and Regulations:

1. All votes shall be counted by the inspector(s) of election in public at a properly noticed open meeting of the board of directors or members.
2. Any candidate or other member of the association may witness the counting and tabulation of the votes.
3. 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.

ELECTION RULES AND REGULATIONS

4. 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.
5. Within 15 days of the election, the board shall publicize the results of the election in a communication directed to all members.

VII. PROHIBITION ON CAMPAIGN FUNDING

The Board of Directors hereby adopts the following Rules and Regulations pursuant to **Civil Code § 1363.04 (a)**, which sets forth that association funds shall not be used for campaign purposes in connection with any association board election or any other association election except to the extent necessary to comply with duties of the association imposed by law.

1. The term "Campaign purposes" is defined to include, without limitation,
 - a. Expressly advocating the election or defeat of any candidate that is on the ballot; or
 - b. including the photograph or prominently featuring the name of a candidate on a communication" from the association (except the ballot and voting material and equal access communications sent pursuant to **Civil Code Section 1363.03(a)**).

CONFLICTING/INVALID GOVERNING DOCUMENT SECTIONS

The following is a list of Coronado at Aliso Viejo Homeowners Association governing documents by Article and Section that are rendered ineffective by Senate Bill 61. The remainder of the governing documents will still be in full force and effect.¹

By-Laws

1. Article 2 Section 2.4. Proxies

"Votes may be cast in person or by proxy. Proxies must be filed with the Secretary before the appointed time for each meeting."

¹ There may be conflicts with other provisions in the governing documents and codes that could be affected by the implementation of Senate Bill 61.