

ROWLAND HEIGHTS VILLAS HOA

Election & Voting Rules

Adopted 02-08-2022

These Election Rules revoke all previous election rules, and all amendments thereto, and substitute in their place these Election Rules.

1. Applicability of Rules

a. **Specified Elections-** In accordance with California Civil Code 5100 et seq., these rules shall apply to elections regarding assessments legally requiring a vote, election and removal of directors, amendments to the governing documents, or the grant of exclusive use of common area pursuant to Civil Code Section 4600.

2. Access to Association Media

a. **Definition of Association Media-** "Association Media" means the Association's newsletters, internet websites and/or association cable channel or any other form of global communication with the membership.

b. **Equal Access to Association Media-** All candidates and members will be granted equal access to the -Association's media- for purposes reasonably related to the election.

c. **No Alteration of Candidate Communications-** The Association shall not edit or change the content of any candidate's message but may include a statement disclaiming responsibility for the content.

3. Access to Common Area Meeting Space

a. **Equal Access to Common Area Meeting Space-** All candidates and members shall be granted equal access to the common area meeting space, if any, at no cost, for purposes reasonably related to the election.

4. Number of Directors; Candidate Qualifications

a. **Number and term of Directors** - The Board will consist of (5) Directors. The term of each Director is two years and until a qualified successor is elected to fill his/her seat. The terms of each Director shall be staggered. In any election in which more than two Directors are elected, the Directors elected with the lesser number of votes shall serve the shorter terms as applicable to fill the staggered terms.

b. **Candidates and Director Qualifications:** Members must meet the qualifications in the subsections hereafter to be eligible for nomination as a candidate for, or to serve as a Director on, the Board. Any dispute about whether any of these qualifications are met- and, if not, whether a nominee or Director must be disqualified from running for office or serving on the Board, must be made at a properly noticed disciplinary hearing conducted at an executive session Board meeting.

1. **Candidates Must Be a Member-** The Association must disqualify the nomination of a candidate who is not a Member of the Association at the time of nomination.

2. **Member in Good Standing:** To be eligible for nomination and/or to serve on the Board, the person or impersonal entity must not be delinquent by more than sixty (60) days in the payment of any regular or special Assessments {following proper notice, hearing, and a finding by the Board) except:
 - A person may not be disqualified from nomination for nonpayment of fines, fines characterized as assessments, collection charges, late charges or costs levied by a third party.
 - A person may not be disqualified from nomination because the person has paid the regular or special assessment under protest.
 - A person may not be disqualified from nomination due to delinquent assessments if the person has entered into and is in compliance with a payment plan with the Association pursuant to Civil Code Section 5665 and fulfilling the terms of the payment plan.
3. **Criminal Conviction Affecting Fidelity Bond Coverage** - An association may disqualify a nominee 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 the insurance required by Section 5806 or terminate the association's existing insurance coverage required by Section 5806 as to that person should the person be elected.
4. **Joint Ownership** - An Association shall disqualify a person from nomination as a candidate if the person, if elected, 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 and the other person is either properly nominated for the current election or an incumbent director.

5. Opportunity for Internal Dispute Resolution Prior to Disqualification

- a. The Association shall not disqualify a person from nomination if the person has not been provided the opportunity to engage in internal dispute resolution ("DR") pursuant to Article 2 (commencing with Section 5900) of Chapter 10.

6. Inspectors of Elections

- a. **Selection Process.** Prior to the date the nomination materials are first sent out, the Board of Directors must, at an open meeting of the Board, select either one (1) or three (3) person(s) as inspector(s) of Election. Eligible inspector(s): The Board may select as inspector(s) of Election, any person or entity or subdivision of a business entity not currently employed or under contract to the Association. Eligible Inspectors include, but are not limited to:

1. Poll Workers. A volunteer poll worker with the County Registrar of Voters
2. Accountants. A licensee of the California Board of Accountancy, not under contract to the Association.
3. Notary Public. A notary public commissioned by the California Secretary of State
4. Association Members. Members of the Association, but not: (i) members of the Board, (ii) candidates for the Board, (iii) persons related to a member of the Board, or (iv) persons related to a candidate for the Board
5. Professional Inspectors. Third party persons or entities who provide professional election services who contract with the Association solely to serve as an Inspector of Election.

b. Duties of Inspectors of Election

1. Determine the number of memberships entitled to vote and the voting power of each.

2. Make corrections to the candidate list or voter list within two (2) business days after receiving a report from the Association or a Member of any errors or omissions to either list prior to the distribution of ballots.
3. Determine the authenticity, validity, and effect of proxies, if any.
4. Deliver, or cause to be delivered, to each Member of the Association, at least 30 days before an election, ballots and a copy of these Election Rules as described in Section 7 (b) Above.
6. Receive ballots.
7. Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.
8. Count and tabulate all votes.
9. Determine when the polls shall close, consistent with the governing documents.
10. Determine the tabulated results of the election and promptly report the tabulated results of the election to the Board.
11. Perform any acts as may be proper to conduct the election with fairness to all members in accordance with California law and the Association's governing documents, including these Election Rules...

c. Good Faith of inspector(s) of Election - An inspector of elections shall perform all duties impartially, in good faith, to the best of the inspector of election's ability, as expeditiously as is practical, and in a manner that protects the interest of all Members of the Association, If there are three inspectors of elections, 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.

d. Appointment Power of Inspectors of Election - The inspector or inspectors of election shall have the power to appoint and oversee additional persons to verify signatures and to count and tabulate votes as the inspector or inspectors deem appropriate, provided that the persons are independent third parties.

e. Removal of Inspectors of Election - The Board of Directors may remove and replace any inspector of election prior to the tabulation of votes if an inspector resigns or if the Board reasonably determines that an inspector will not be able to perform his or her duties impartially and in good faith.

7. Nomination Procedures

a. Nomination Procedures and Notice - Prior to the election of Directors, the Board must, by written notice to all Members, solicit nominees. The solicitation must include the "Candidate and Director Qualifications" described above and provide general notice of the procedure and deadline for submitting a nomination. The deadline must be at least thirty {30} days after giving notice. Delivery of the solicitation must be given by individual notice, pursuant to Civil Code §4040, if individual notice is requested by a Member before the solicitation is given. Nominees must be listed as candidates on the ballot provided (i) they meet candidate and Director qualifications and (ii) their nomination is made prior to the date and time set for the close of nominations.

b. Self-Nomination - Any qualified person may nominate himself or herself for election to the Board of Directors by submitting to the Association a written statement signed and dated by the person nominating himself or herself. The Association must set a cut-off date for the receipt of self- nomination statements, which date must be publicized in advance to the Members.:

c. Floor Nominations and Write-In Candidates - Nominations, even if previously closed, must be reopened from the floor of the ballot counting meeting and write-in candidates must be permitted.

8. Election Timeline - Notices and Deadlines

- a. At Least 30 Days Before Nomination Deadline** - The Association shall provide general notice of the procedure and deadline for submitting a nomination. Individual notice shall be delivered to any member who has requested individual notice. That notice shall include the following:
- The number of board positions that will be filled at the election
 - The deadline for submitting nominations.
 - The manner in which nominations can be submitted
 - A statement informing member that if, at the close of the time period for making nominations, there are the same number or fewer qualified candidates as there are board positions to be filled, then the board of directors may, after voting to do so, seat the qualified candidates by acclamation without balloting.
- b. Reminder Notice:** A reminder notice between 7 and 30 days before the deadline for submitting nominations provided for in subdivision (a) of Sections 5115 of the Civil Code. The reminder notice shall include all of the following:
- The number of board positions that will be filled at the election-
 - The deadline for submitting nominations.
 - The manner in which nominations can be submitted
 - A list of the names of all of the qualified candidates to fill the board positions as of the date of the reminder notice.
 - A statement reminding members that if, at the close of the time period for making nominations, there are the same number or fewer qualified candidates as there are board positions to be filled, then the board of directors may, after voting to do so, seat the qualified candidates by acclamation without balloting.
- c. Confirmation of Receipt of Nomination -**
- The association shall provide, within 7 days of receiving a nomination, a written or electronic communication acknowledging the nomination to the member who submitted the nomination.
 - The association shall provide, within 7 days of receiving a nomination a written or electronic communication acknowledging the nomination to the nominee, indicating either of the following: The nominee is a qualified candidate for the board of directors or the nominee is not a qualified candidate for the board of directors, the basis for the disqualification, and the procedure, which shall comply with Article 2 (commencing with Section 5900) of Chapter 10 of the Civil Code, by which the nominee may appeal the disqualification. (If the Nominee and Nominator are the same person the notices may be combined).
- d. Election by Acclamation** - Notwithstanding the secret balloting requirement in. Section 5100 of the Civil Code., or any contrary provision in the governing documents, when the number of qualified candidates is not more than the number of vacancies to be elected, as determined by the inspector(s) of Elections, the association may consider the qualified candidates elected by acclamation. Otherwise, the inspector(s) of Elections shall proceed at described below.
- e. At Least 30 Days Before Ballots are Distributed (Director Elections Only)** - The Association shall provide General notice to the membership. In addition, the Association shall provide individual notice to any member who has requested individual notice the following:

1. The date and time by which, and the physical address where, ballots are to be returned by mail or handed to the inspector to inspectors of elections.
2. The date, time, and location of the meeting at which ballots will be counted.
3. The list of all candidates' names that will appear on the ballot.
4. Individual notice of the above paragraphs shall be delivered to any member who has requested individual notice.

f. Verification and Correction of Candidate List and Voter List - At least 30 days before ballots are distributed, the Association shall permit Members to verify the accuracy of their individual information on the candidate list (if the Member is a candidate) and on a voter list maintained by the Association, which shall include the 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). The Association or Member shall report any errors or omissions to either list to the inspector or inspectors who shall make the corrections within two business days.

g. At Least 30 Days Before Deadline for Voting - The inspector or inspectors of election shall mail by first-class mail or deliver to every Member or cause to be mailed by first-class mail or delivered to every Member, ballots and two pre-addressed envelopes with instructions on how to return ballots. To preserve confidentiality, a voter may not be identified by name, address, or lot, parcel, or unit number on the ballot. The Association shall use as a model those procedures used by California counties for ensuring confidentiality of vote by mail ballots, including all the following:

- 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, In the upper left-hand corner of the second envelope, the voter shall sign the voter's name, indicate the voter's name, and indicate the address or separate interest identifier that entitles the voter to vote.
- The second envelope is addressed to the inspector or inspectors of elections, 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 elections. The member may request a receipt for delivery.

h. Delivery of these Election Rules - At least 30 days before an election, the inspector or inspectors of election shall deliver, or cause to be delivered, a copy of these Election Rules, Delivery of these Election Rules shall be accomplished by either of the following methods:

1. Posting the Election Rules to an internet website and including the corresponding internet website address on the ballot together with the phrase, in at least 12point font: "The rules governing this election may be found here:".
2. Individual delivery.

i. Within 15 Days After Election - The tabulated results of the election shall be promptly reported to the Board and shall be recorded in the minutes of the next meeting of the Board shall be available for review by Members of the Association. Within 15 days of the election, the Board shall give general notice of the tabulated results of the election to all Members.

9. Voting

- a. Voting Power** - Each Member of the Association has the right to cast one vote per separate interest owned for each matter submitted to owners for voting. Note that each director vacancy counts as one matter. The vote of the owners of each separate interest shall be exercised as the owners among themselves determine, but in no event shall more than one vote be cast on behalf of any separate interest with respect to any matter.

- b. **Cumulative Voting** - The Association's Bylaws allow for cumulative voting for the election of directors per Article II Section 5. If the Association's Bylaws are amended to remove cumulative voting, the Bylaws take priority over these Rules in the event of a conflict.
- c. **Definition of Proxy** - "Proxy" means a written authorization signed by a Member or the authorized representative of the Member that gives another Member the power to vote on behalf of that Member.
- d. **Definition of Signed**- "Signed" means the placing of the Member's name on the proxy (whether by manual signature, typewriting, telegraphic transmission, or otherwise) by the Member or authorized representative of the Member.
- e. **Proxy Voting** - Owners may assign their rights to vote to another Member by a proxy. To ensure secret voting, all proxies must have detachable voting directions which are to be kept by the person voting (the proxyholder). A proxy is not a ballot and shall not be construed or used in lieu of a ballot. The proxyholder must vote by a secret ballot. Proxies must comply with California law to be valid and may be revoked by the owner any time prior to the receipt of the ballot by the inspector of elections.
- f. **No Denial of Ballots** -A ballot shall not be denied to a Member for any reason other than not being a Member at the time when ballots are distributed. If a person becomes a Member after the ballots were distributed, said Member may request a ballot, if the previous owner of that separate interest did not return a ballot in that election. A ballot shall not be denied to a person with general power of attorney for a Member. The ballot of a person with general power of attorney for a Member shall be counted if returned in a timely manner.
- g. **Loss of Ballot** - If an owner loses his/her ballot prior to an election, they may request another ballot, along with the appropriate envelopes from the inspector(s) of election, but they must sign a statement, under penalty of perjury that the original ballot was either lost, destroyed, or never received, The inspector(s) of election shall maintain a record of each request and, if it is determined that the owner voted twice, even by mistake, neither ballot will be counted.
- h. **Non-revocable Ballots** - Written ballots may not be revoked once they are submitted to the inspector(s) of Election. Once written ballots are deposited in the U.S. mail to the inspector(s) of Election, they are considered non-revocable.
- i. **Secret Ballots** - All ballots mailed or otherwise delivered to the membership must include a double-envelope system and voting instructions for returning the ballots as provided for in the Davis-Stirling Act and must be mailed by first-class mail or delivered to every Member entitled to vote at least thirty (30) days before the initial voting deadline. Ballots seeking approval to amend or restate governing documents must be delivered to the Members with the text of the proposed amendment.
- **Signature.** Ballots do not require a signature. Ballots signed by Members remain valid.
 - **InnerEnvelope.** The Association shall provide two envelopes TO preserve secrecy, the ballot is to be placed within an inner envelope with no identifying information. However, information written on the inner envelope by a Member will not invalidate the ballot. The inner envelope containing the ballot is to be placed into a second outer envelope containing identifying information.
 - **Outer Envelope.** In the upper left-hand corner of the outer envelope, the voting Member must sign his/her name and indicate (print, type, etc.) his/her name and address entitling the voter to vote. The outer envelope must be addressed to the inspector(s) of Election.
 - **Delivery.** The outer envelope may be mailed to the address on the envelope or delivered to a location specified by the inspector(s) of Election. The Member may request a receipt for delivery.
- j. **Voting Period** - The polls will open when the ballots are sent to the Members and will close two hours after commencement of the annual meeting, or any adjournment thereof, or upon final collection of ballots for counting, whichever occurs first.

- k. **Counting and Tabulation of Ballots** - All votes must be counted and tabulated by the inspector(s) of elections 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 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.
- l. **Custody and Retention of Ballots**- 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 inspector of elections or at a location designated by the inspector or inspectors until after the tabulation of the vote, and until time allowed by the time allowed by Civil Code §5145 for challenging the election has expired, at which time custody shall be transferred to the Association.

10. Recount or Challenge; Inspection of Association Election Materials.

- a. **Recount or Challenge** - 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.
- b. **Inspection of Election Materials** - The Association shall be required to retain as Association election materials the returned ballots, signed voter envelopes, any proxies, the voter list, and the candidate registration list, such election materials are subject to inspection and copying in accordance with Civil Code §5200, except that the signed voter envelopes may only be inspected and may not be copied.

11. Use of Association Funds for Campaign Purposes

- a. **Association Funds Shall Not Be Used for Campaign Purposes** - The Association _funds shall not be used for campaign purposes in connection with any Association election of directors, 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.
- b. **Definition of Campaign Purposes** - "Campaign Purposes" include, but are not limited to, the following:
 - 1. Expressly advocating the election or defeat of any candidate that is on the Association election ballot.
 - 2. Including the photograph or prominently featuring the name of any candidate on a communication from the Association or the Board, excepting the ballot and ballot materials, within 30 days of an election.

12. Amendment of Election Rules

- a. **Amendment** - The Election Rules may be amended in accordance with the procedures set forth at Civil Code §4360; provided,¹ however, that the Election Rules shall not be amended less than 90 days prior to an election.