

## THE COMMUNITY ASSOCIATION OF PALOMARES HILLS

### VOTING AND ELECTION RULES

#### 1. General.

- 1.1 These Rules are intended to comply with Civil Code sections 5100 through 5130 and shall apply to Member voting: (1) to elect or remove Members of the Board of Directors; (2) regarding assessments; (3) regarding amendments to the governing documents; (4) regarding the granting of exclusive use of common area property; and (5) at the discretion of the Board of Directors, regarding any other matter that may be the subject of a vote of Association Members. These Rules shall become effective on December 31, 2019.
- 1.2 As used in these Rules, "general notice" means providing notice by one or more of the following methods: any method provided for delivery of an individual notice pursuant to Civil Code section 4040; inclusion in a billing statement, newsletter, or other document; posting the printed document in a prominent location that is accessible to all Members, if the location has been designated for the posting of general notices by the Association in the annual policy statement; if the Association broadcasts television programming for the purpose of distributing information on Association business to its Members, by inclusion in the programming.

#### 2. Access to Association Media and Facilities.

- 2.1 No candidate or Association Member advocating a point of view for purposes related to an election covered by these Rules shall be allowed access to any form of Association media including, but not limited to, newsletters, common area bulletin board, internet website, social media pages or television programming after written ballots are distributed as specified in Section 7.1 until the conclusion of the election. "Association media" shall not include correspondence to the Members via first-class mail, personal delivery, or email. For purposes of this section, "advocacy" shall not include the following: (1) "get out the vote" efforts or publication of communications in any format which are solely for the purpose of encouraging Members to timely return ballots to the Inspector(s) of Elections for tabulation; (2) descriptions of the purpose and effect of a proposed rule change pursuant to Civil Code section 4360; or (3) a factual summary of significant changes to the governing documents accompanying the text of a proposed amendment pursuant to Civil Code section 5115(e).
- 2.2 "Equal access" shall mean, for written statements on any platform, publication of written statements not to exceed a predetermined number of words. The Board shall not edit or redact any statement, and shall not be required to publish any statement which exceeds the predetermined word limit.

- 2.3 The Association shall not be responsible or liable for the content of any statement published pursuant to the "equal access" rules. The author or proponent of any statement or point of view shall be solely responsible and liable for the content of their statements. All statements published in Association media pursuant to the "equal access" rules must identify the author or proponent, which author or proponent must be an Association Member to be eligible to publish in Association media. Anonymous statements will not be accepted or published.
- 2.4 If the Association uses Association media to advocate for a particular position (excepting "get out the vote" activities as described above) regarding an election of Directors to the Board, then it shall make the same media in a comparable format (but not necessarily contemporaneously) available to all candidates to allow advocacy by the candidate(s) regarding the Association position. Additionally, the Board may, but is not required to, generally make Association media (i.e., posting on the Association's official website, newsletter, or other notices mailed or delivered by the Association to the owners of the Lots) available to candidates running for election to the Board for purposes that are reasonably related to the election in which that candidate is running. If the Board allows such general access to Association media, then all candidates shall be allowed equal access to the same media.
- 2.5 If the Association uses Association media to advocate for a particular position (excepting "get out the vote" activities as described above) regarding any other matter, then it shall make the same media in a comparable format (but not necessarily contemporaneously) available to Members advocating a point of view. Additionally, the Board may, but is not required to, generally make Association media (i.e., posting on the Association's official website, newsletter, or other notices mailed or delivered by the Association to the owners of the Lots) available to Members for purposes that are reasonably related to the election in which the Association advocated a position.
- 2.6 For each election of Directors, the Association may, but is not required to, schedule one "Meet the Candidates" town hall meeting at the Association's common area meeting space where each nominated candidate may attend and speak to any Association Members choosing to attend according to guidelines which may be established by the Board of Directors.
- 2.7 For each other election subject to these Rules, the Association may schedule one informational meeting at the Association's common area meeting space at which any Member advocating a point of view which is the subject of a pending election may attend and address the attendees according to guidelines which may be established by the Board of Directors.
- 2.8 With the exception of refreshments which may be provided at the above assemblies, no Association funds shall be used for campaign purposes in connection with any election which is subject to these Rules.

- 2.9 The Board shall ensure that all candidates for election to the Board are given access to common area meeting space, at no cost, for purposes related to their campaigns.
- 2.6 Whenever the Board places a matter before the Members which requires Member approval, the Board shall ensure that Members advocating a point of view on the matter are given access to common area meeting space, at no cost, for purposes reasonably related to advocating their point of view, whether or not they agree with the point of view advocated by the Board on the matter at issue.

### **3. Qualifications of Candidates.**

- 3.1 Consistent with Civil Code section 5105(b), candidates for the Board of Directors must meet qualifications as set forth hereafter.
  - 3.1.1 Be a Member of the Association prior to the close of nominations;
  - 3.1.2 Be current in all regular and special assessment payments, to the extent that the Bylaws hold current directors to the same standard;
  - 3.1.3 Not have a past criminal conviction that would either (a) prevent the Association from purchasing the fidelity bond coverage required by Civil Code section 5806 should the person be elected, or (b) terminate the Association's existing fidelity bond coverage as to that person should that person be elected; and
  - 3.1.4 No more than one (1) Owner of any particular Lot may serve on the Board at the same time.

### **4. Nomination of Candidates.**

- 4.1 To the extent not in conflict with Civil Code sections 5100 and 5105, candidates for the Board of Directors shall be nominated as set forth hereafter.
  - 4.1.1 At least 30 days before any deadline for submitting a nomination, the Association shall provide general notice of the procedure and deadline for submitting a nomination and shall give all Members an opportunity to nominate themselves as candidates for the Board of Directors.
  - 4.1.2 Interested persons must inform the Association's managing agent or Board of Directors in writing of their request to be a candidate for the Board of Directors (self-nomination). Any self-nominated candidate must disclose a past criminal conviction that would either prevent the Association from purchasing the fidelity bond coverage required by Civil Code section 5806 should the person be elected or terminate the Association's existing fidelity bond coverage as to that person should that candidate be elected to the Board.
  - 4.1.3 Nominations for candidates wishing to be included on the mailed ballots shall close on the date established by the Association. All nominations to be included in the written ballot must be in writing and delivered to the Association by the

deadline established by the Association, which deadline shall be in advance of the date on which the ballots are mailed.

- 4.1.4 The Association shall review all persons so responding for compliance with the qualifications identified in Section 3 of these Rules.
- 4.1.5 All qualified persons who timely respond to the Association's solicitation shall be candidates for the Board of Directors at the next election.
- 4.1.6 The Association shall provide general notice of the following at least 30 days before the ballots are distributed:
  - a. The date and time by which, and the physical address where, ballots are to be returned by mail or handed to the Inspector(s) of Elections;
  - b. The date, time and location of the meeting at which ballots will be counted; and
  - c. In an election of Directors, the list of all candidates' names that will appear on the ballot (i.e., the candidate registration list).
- 4.1.7 The Association shall permit Members to verify or correct, by providing documentary evidence (including, but not limited to, a grant deed or general power of attorney) satisfactory to the Inspector(s) of Elections, the accuracy of their individual information on the candidate registration list (as applicable) and the voter list. The voter list shall include the voter/Member's name, voting power, and either the physical address of the voter's (a) Lot, or (b) parcel number, or (c) both, and the mailing address for the ballot if it differs from the physical address of the separate interest or if only the parcel number is used.

## **5. Inspector(s) of Elections.**

- 5.1 The Board shall appoint one or three Inspector(s) of Elections who shall perform all functions required by Civil Code sections 5105 and 5110, including:
  - 5.1.1 Determine the number of Members entitled to vote and the voting power of each;
  - 5.1.2 Determine the authenticity, validity and effect of proxies, if any;
  - 5.1.3 Receive and be the custodian of ballots, and direct the location to which ballots shall be sent until tabulated by the Inspector(s) of Elections;
  - 5.1.4 Correct errors or omissions on the candidate registration list (if any) and/or voting list within two business days of the errors or omissions being reported, with receipt of satisfactory documentary evidence;
  - 5.1.5 Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote;
  - 5.1.6 Count and tabulate all votes;

- 5.1.7 Determine when the polls shall close, with the discretion to extend the deadline for voting as necessary;
  - 5.1.8 Determine the results of the election; and
  - 5.1.9 Report the results of the election to the Board of Directors.
- 5.2 Eligible Inspectors of Elections may include:
- 5.2.1 Any Association Members who are not Members of or candidates for the Board of Directors nor relatives of Members or candidates for the Board of Directors; and
  - 5.2.2 An independent third party who is not currently employed or under contract to the Association for any compensable services other than serving as an Inspector of Elections.
- 5.3 The Association may, at the discretion of the Board of Directors, provide reasonable compensation to the Inspector(s) of Elections.
- 5.4 The Inspector(s) of Elections may appoint and oversee additional persons to verify signatures and to count and tabulate votes as the Inspector(s) deem appropriate, provided that the appointed persons would themselves be eligible to serve as Inspector(s) of Elections pursuant to Section 5.2, above.

## **6. Voting Rights.**

- 6.1 Each Association Member shall be entitled to a single vote with regard to each matter that is the subject of a pending election. For purposes of these Rules, therefore, all record owners of a single Lot shall collectively constitute one "Association Member." Write-in candidates are not permitted in an election of Directors.
- 6.2 With regard to an election of Directors, because the Association's Bylaws permit cumulative voting, each Member shall be entitled to cast a number of votes equal to the number of Directors to be elected multiplied by the number of Lots owned by that Member, and each Member may cumulate its votes. In the event the Association's Bylaws are amended to prohibit cumulative voting, cumulative voting shall not be permitted.
- 6.3 A Member shall not be denied a ballot for any reason other than not being a Member at the time when ballots are distributed.
- 6.4 A ballot may not be denied to a person with general power of attorney for a Member and a ballot of a person with general power of attorney for a Member must be counted if returned in a timely manner (i.e., by the ballot return deadline).
- 6.5 The voting period will run from the date on which ballots are distributed (as specified in Section 7.1, below) until the polls are closed.





