

# CANYON CREEK HOMEOWNERS ASSOCIATION

## Rules for Voting by Secret Ballot

Pursuant to California Civil Code Section 1363.03, the following rules and procedures shall apply for the Election of Directors, Voting regarding Assessments, Governing Documents and the Granting of the Exclusive Right to Use Common Area:

### 1. Meeting at Which Secret Ballots Shall Be Tabulated.

1.1 The inspectors of election shall tabulate the ballots for the election of directors at the annual meeting of the owners or, if no quorum is present, at a special meeting of the Board of Directors duly noticed for the same date, time and place, as the annual meeting called for the purpose of counting ballots. The Board of Directors shall determine the date, time and place of said annual meeting of the owners and the concurrent special meeting of the Board in accordance with the Association's Bylaws.

### 2. Nomination of Candidates.\*

2.1 At least sixty (60) days before the date of the meeting at which the ballots for the election of directors are to be counted, the Association shall mail to each owner a Candidate Nomination Form.

2.2 According to the Association's Bylaws, the qualification(s) to serve on the Association's Board of Directors are as follows: ". . .all directors. . . must be members of the Association. . ." Article IV, Section 1.

2.3 Owners may nominate themselves or another person; provided, however, all candidates must meet the qualifications set forth in Section 2.2.

2.4 Any candidate nominated by another person will be contacted to confirm that such candidate consents to having his or her name placed in nomination for election to the Board. Candidates nominated from the floor, at the meeting, must be present to accept said nomination.

2.5 All candidates who meet the qualifications to serve on the Board if any and, if appropriate, have confirmed their willingness to run for election to the Board, shall be listed on the secret ballot.

2.6 The Candidate Nomination Form must be returned to the Association at the address provided on, and by the deadline stated on, such form, which deadline must be at least forty-five (45) days before the date the ballots for the election of directors are scheduled to be counted.

### 3. Inspectors of Election.

3.1 The Board shall appoint three independent third parties as inspectors of election after the close of candidate nominations, but before the secret ballots are mailed to all of the owners. An independent third party includes, but is not limited to:

3.1.1 a volunteer poll worker with the county registrar of voters;

3.1.2 a licensee of the California Board of Accountancy;

3.1.3 a notary public

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\* Only for Election of Directors

3.1.4 a member of the Association provided such member is not a member of the Board of Directors or a candidate for the Board of Directors or related to a member of the Board of Directors or a candidate for the Board of Directors; and,

3.1.5 a person who is currently employed or under contract to the Association for any compensable services.

3.2 Prior to the secret ballots being mailed to all of the owners, the inspectors of election shall meet to determine to whom the secret ballots shall be returned (the "Ballot Collector"), which may be the Association's property manager, if any.

3.3 The inspectors of election shall also do all of the following:

3.3.1 determine the number of memberships entitled to vote and the voting power of each.

3.3.2 determine the authenticity, validity, and effect of proxies, if any;

3.3.3 receive ballots;

3.3.4 hear and determine all challenges and questions in any way arising out of or in connection with the right to vote;

3.3.5 count and tabulate all votes;

3.3.6 determine when the polls shall close;

3.3.7 determine the result of the election;

3.3.8 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.

3.4 The inspector(s) of election may appoint and oversee additional persons to count and tabulate the votes as the inspectors deem appropriate.

3.5 An inspector of election shall perform his or her duties impartially, in good faith, to the best of his or her ability, and as expeditiously as is practical. The decision or act of a majority shall be effective in all respects as the decision or act of all.

3.6 Any report made by the inspector or inspectors of election is prima facie evidence of the facts stated in the report.

3.7 The Board may remove and replace any inspector of election prior to the tabulation of ballots if an inspector of election resigns or if the Board reasonably determines that an inspector of election will not be able to perform his or her duties impartially and in good faith.

**4. Secret Ballot Procedure; Record Date.**

4.1 Ballots and two pre-addressed envelopes with instructions on how ballots shall 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.

4.2 Ballots must ensure the confidentiality of the voters.

4.2.1 A voter may not be identified by name, address, or lot, parcel, or unit number on the ballot;

4.2.2 The ballot may not require the signature of the voter;

4.2.3 The ballot itself 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 prints and signs his or her name, address, and lot, or parcel, or unit number that entitles him or her to vote. The second envelope is addressed to the inspectors of election of the Association, who will be tallying the votes. Failure to do so will invalidate the ballot and member's vote.

4.3 Owners may return their secret ballot by mail, hand deliver it to the meeting or complete the ballot at the meeting; provided, only those ballots which are delivered to the inspectors of election prior to the polls closing shall be counted.

4.4 A member may submit a written request to the Association for a receipt for delivery of the election materials.

4.5 The record date for purposes of voting shall be the date the ballots are mailed to all of the owners.

4.6 Once cast, secret ballots cannot be revoked; they are irrevocable.

**5. Campaigning.**

5.1 All candidates or members advocating a point of view during a campaign, including those not endorsed by the Board, shall be provided equal access to Association media, newsletters, or Internet Web sites (if any) for purposes that are reasonably related to the election. The Association may 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.

5.2 All candidates, including those who are not incumbents, and all members advocating a point of view, including those not endorsed by the Board, for purposes reasonably related to the election, shall be provided equal access to any common area meeting space, if any exists, during a campaign at no cost.

**6. Handling of Ballots.**

6.1 As secret ballots are returned to the Ballot Collector, the Ballot Collector shall check off on a sign-in sheet that a ballot has been received for such a resident. The first secret ballot received for any residence shall be the ballot which is counted. Any subsequent ballots for the same residence which are received shall be deemed invalid and shall be discarded.

6.2 The sealed ballots at all times shall be in the custody of the inspectors of election or at a location designated by the inspectors until delivered to the inspectors at the meeting for the opening of the ballots and the tabulation of the vote. After the counting of the ballots and the certification of the election results by the inspectors of election, the ballots shall be transferred to the Association.

6.3 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.

6.4 After tabulation, election ballots shall be stored by the Association in a secure place for no less than one 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.

7. **Tabulation of Votes: Quorum Requirement.**

7.1 All votes shall be counted and tabulated by the inspectors of election in public at a properly noticed open meeting of the members or of the Board, at which a quorum of members or a quorum of Board members, as the case may be, must be present.

7.2 The inspectors of election shall confirm that no more than one ballot was returned for each residence.

7.3 Any candidate or other member of the Association may witness the counting and tabulation of the votes.

7.4 In order for the vote for the election of directors to be valid, ballots must be returned by at least a quorum of the owners.

8. **Announcement of Results.**

8.1 The results of the election shall be promptly reported to the Board of Directors 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.

8.2 Upon certification of the election results by the inspectors of election, the newly elected Board members shall be deemed to have taken office.

8.3 Within 15 days of the election, the Board shall publicize the results of the election in a communication directed to all members.

9. **Other Voting/Campaign Issues.**

9.1 The total number of memberships entitled to vote equals the total number of residences in the Association. However, owners whose voting rights have been suspended in accordance with the Association's governing documents after notice and hearing shall not be entitled to vote.

9.2 Cumulative voting is permitted.

9.3 Association funds may not be used for "campaign purposes" in connection with any board election. The term "campaign purposes" is defined to include, without limitation, (1) "expressly advocating the election or defeat" of any candidate that is on the ballot; or (2) "including the photograph or prominently featuring the name of a candidate on a communication" from the association (except the ballot and voting materials and equal access communications sent pursuant to the Section, above, entitled "Campaigning").

9.4 The Board of Directors may enact and implement a "Meeting Code of Conduct" to govern the conduct of members at meetings.

# Canyon Creek

## HOMEOWNERS ASSOCIATION BOARD CANDIDATE APPLICATION

The Annual Meeting is scheduled for \_\_\_\_\_ for the purpose of electing five (5) members to the Board of Directors for a one (1) year term.

Prior to filling out this form, you are encouraged to review the Election Rules and Procedures for the Association to determine if you meet the eligibility requirements for election to the Board of Directors. Further, as a Board Member you will be responsible for the handling of the Association's funds and for the day-to-day decisions affecting a California non-profit corporation; therefore, the Association's insurance carrier will bond you. If you are unable to be bonded, you may be unable to serve on the Board.

Even though serving on the Board is strictly voluntary, it does involve a time commitment on a regular basis. If you are unable to give the time necessary, you might want to reconsider volunteering. After due consideration, if you feel you qualify, return the form to Total Property Management, 2301 Dupont Drive, Suite 100, Irvine, CA 92612 no later than \_\_\_\_\_. All nominees will be listed on the ballot.

Please answer the following questions:

Applicant Name: \_\_\_\_\_

Address #: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Are you on record title to a unit/lot in the Association? \_\_\_\_\_ YES \_\_\_\_\_ NO

If you would like to submit a statement of qualifications or a brief statement, it MUST be submitted on a separate page other than the Board Candidate Application.

**Affirmation Regarding Office:** If elected, I will not use the authority of my office to promote my personal gain or benefit; I will obey the Association's governing documents; I will not act beyond the scope of my authority; I will not make false or misleading statements; and I will not disseminate confidential information relating to the Association or its affairs.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

# CANYON CREEK HOMEOWNERS ASSOCIATION

## Rules for Voting By Secret Ballot Regarding Assessments, Amendments to Governing Documents and Granting of Exclusive Right to Use Common Area

Pursuant to new Civil Code Section 1363.03(e), when owners are to vote to approve assessments, amendments to governing documents and/or granting the exclusive use of common area to a member, the following must occur:

### 1. Meeting at Which Secret Ballots Shall Be Tabulated.

1.1 Unless the vote is being taken in connection with an annual meeting of the owners, the inspectors of election shall tabulate the ballots for the vote to approve assessments, amendments to governing documents and/or granting the exclusive use of common area to a member shall be tabulated at a duly noticed (regular or special) meeting of the Board of Directors. The Board of Directors shall determine the date, time and place of said Board meeting.

### 2. Inspectors of Election.

2.1 The Board shall appoint three independent third parties as inspectors of election before the secret ballots are mailed to all of the owners. An independent third party includes, but is not limited to:

2.1.1 a volunteer poll worker with the county registrar of voters;

2.1.2 a licensee of the California Board of Accountancy;

2.1.3 a notary public;

2.1.4 a member of the Association provided such member is not a member of the Board of Directors or a candidate for the Board of Directors or related to a member of the Board of Directors or a candidate for the Board of Directors; and,

2.1.5 a person who is currently employed or under contract to the Association for any compensable services.

2.2 Prior to the secret ballots being mailed to all of the owners, the inspectors of election shall meet to determine the location to whom the secret ballots shall be returned (the "Ballot Collector"), which may be the Association's property manager, if any.

2.3 The inspectors of election shall also do all of the following:

2.3.1 determine the number of memberships entitled to vote and the voting power of each.

2.3.2 determine the authenticity, validity, and effect of proxies, if any;

2.3.3 receive ballots;

2.3.4 hear and determine all challenges and questions in any way arising out of or in connection with the right to vote;

2.3.5 count and tabulate all votes;

2.3.6 determine when the polls shall close;

2.3.7 determine the result of the vote;

2.3.8 perform any acts as may be proper to conduct the vote with fairness to all members in accordance with this section and all applicable rules of the Association regarding the conduct of the vote that are not in conflict with this section.

2.4 The inspectors of election may appoint and oversee additional persons to count and tabulate the votes as the inspectors deem appropriate.

2.5 An inspector of election shall perform his or her duties impartially, in good faith, to the best of his or her ability, and as expeditiously as is practical. The decision or act of a majority shall be effective in all respects as the decision or act of all.

2.6 Any report made by the inspector or inspectors of election is prima facie evidence of the facts stated in the report.

2.7 The Board may remove and replace any inspector of election prior to the tabulation of ballots if an inspector of election resigns or if the Board reasonably determines that an inspector of election will not be able to perform his or her duties impartially and in good faith.

### 3. **Secret Ballot Procedure: Record Date.**

3.1 Ballots and two pre-addressed envelopes with instructions on how to return ballots shall 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.

3.2 Ballots must ensure the confidentiality of the voters.

3.2.1 A voter may not be identified by name, address, or lot, parcel, or unit number on the ballot;

3.2.2 The ballot may not require the signature of the voter;

3.2.3 The ballot itself 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 prints and signs his or her name, address, and lot, or parcel, or unit number that entitles him or her to vote. The second envelope is addressed to the inspectors of election, who will be tallying the votes.

3.3 Owners may return their secret ballot by mail, hand deliver it to the meeting or complete the ballot at the meeting; provided, only those ballots which are delivered to the inspectors of election prior to the polls closing shall be counted.

3.4 A member may submit a written request to the Association for a receipt for delivery of the election materials.

3.5 The record date for purposes of voting shall be the date the ballots are mailed to all of the owners.

3.6 Once cast, secret ballots cannot be revoked; they are irrevocable.

4. **Campaigning.**

4.1 All members advocating a point of view during a campaign, including those not endorsed by the Board, shall be provided equal access to Association media, newsletters, or Internet Web sites (if any) for purposes that are reasonably related to the vote. The Association may 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.

4.2 All members advocating a point of view, including those not endorsed by the Board, for purposes reasonably related to the vote, shall be provided equal access to any common area meeting space, if any exists, during a campaign at no cost.

5. **Handling of Ballots.**

5.1 As secret ballots are returned to the Ballot Collector, the Ballot Collector shall check off on a sign-in sheet that a ballot has been received for such a residence. The first secret ballot received for any residence shall be the ballot which is counted. Any subsequent ballots for the same residence which are received shall be deemed invalid and shall be discarded.

5.2 The sealed ballots at all times shall be in the custody of the inspectors of election or at a location designated by the inspectors until delivered to the inspectors at the meeting for the opening of the ballots and the tabulation of the vote. After the counting of the ballots and the certification of the vote results by the inspectors of election, the ballots shall be transferred to the Association.

5.3 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.

5.4 After tabulation, the ballots shall be stored by the Association in a secure place for no less than one year after the date of the vote. In the event of a recount or other challenge to the voting 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.

6. **Tabulation of Votes; Quorum Requirement.**

6.1 All votes shall be counted and tabulated by the inspectors of election in public at a properly noticed open meeting of the Board, at which a quorum of Board members must be present.

6.2 The inspectors of election shall confirm that no more than one ballot was returned for each residence.



6.3 Owners who have not previously submitted a ballot may complete one at the meeting and return it to the inspectors of election prior to the polls closing.

6.4 Any member of the Association may witness the counting and tabulation of the votes.

6.5 In order for the vote on the proposal to be valid, ballots must be returned by at least a quorum of the owners and the requisite percentage of owners must vote to approve the proposal.

7. **Announcement of Results.**

7.1 The results of the vote shall be promptly reported to the Board of Directors 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.

7.2 Within 15 days of the vote on the proposal, the Board shall publicize the results of the vote in a communication directed to all members.

8. **Other Voting Issues.**

8.1 The total number of memberships entitled to vote equals the total number of residences in the association. However, owners whose voting rights have been suspended in accordance with the Association's governing documents after notice and hearing shall not be entitled to vote.

8.2 The Board of Directors may enact and implement a "Meeting Code of Conduct" to govern the conduct of members at meetings.

8.3 Proxies will be accepted so long as they meet the requirements of all applicable laws and the Association's governing documents, and they are consistent with the secret ballot election process. Directed proxies and proxy envelopes are prohibited.

# CANYON CREEK HOMEOWNERS ASSOCIATION ELECTION OF DIRECTORS

## SECRET BALLOT

### *ELECTION OF DIRECTORS*

California law now requires that all directors be elected via secret ballot. You have one vote for each vacancy on the Board. There are \_\_\_\_\_ vacancies.

Voting: CUMULATIVE VOTING

You may vote your \_\_\_\_\_ votes in any manner you wish. You may vote \_\_\_\_\_ votes for one candidate, or divide your votes in any manner among candidates; however, if your ballot contains in excess of \_\_\_\_\_ votes, or fractional votes, no such votes will be counted. The candidates receiving the highest number of votes shall be deemed to have been elected.

*Write-in candidates, i.e., candidates written on the ballots after they are distributed by the Association, and nominations from the floor, are discouraged as they do not afford such candidates the same opportunity as those candidates whose names are pre-printed on the ballot, and it complicates the election process at the time of the meeting.*

	<u>Nominees</u>	<u>Number of Votes</u>
(1)	_____	_____
(2)	_____	_____
(3)	_____	_____
(4)	_____	_____
(5)	_____	_____

ONCE CAST, THIS SECRET BALLOT CANNOT BE REVOKED; IT IS IRREVOCABLE.

Please return your ballot according to the enclosed instructions. Please ensure that your name is on the outside of the return envelope, but not on this form. In order to be counted, this secret ballot must be received by the inspectors of election before the official counting process begins.

# CANYON CREEK HOMEOWNERS ASSOCIATION

## Voting Instructions

There are two envelopes included in this package for your use. Recent changes to California law require that all Directors be elected by Secret Ballot. The ballot must be voted by the owner, placed in the ballot envelope and sealed. We cannot accept unmarked ballots as they will be voided. The ballot envelope will not be opened until the meeting referenced above, and then in public. Please follow the directions below to ensure that your vote is counted:

### First Envelope:

Please vote your Secret Ballot by placing it inside the smaller of the two envelopes and seal the envelope. These envelopes will be opened by the inspectors of election at the public meeting. Make no marks on this envelope that would identify your vote in any way. This applies to voting by mail or at the meeting.

### Second Envelope:

The ballot itself is inserted into the ballot envelope which is then sealed. This envelope is inserted into a second envelope that is sealed and addressed to the inspectors of election of the Association. In the upper left hand corner of the second envelope, the voter prints and signs his or her name, address, and lot, or parcel, or unit number that entitles him or her to vote. The inspectors of election will tally the votes. If your address is not on this envelope the inspectors of election cannot count it and will show it as voided. The Ballot Collector (as defined in the Association's Election Rules), will mark off the secret ballots that it has received prior to the meeting on the sign-in sheet. If you have voted your ballot by mail, you will not receive another ballot at the meeting.

Please feel free to contact the Association with any questions regarding this process as it is important that you vote, and that your vote counts! A quorum of members must return ballots in order for the election to be valid.