

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

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.