SUMMER PLACE HOMEOWNERS ASSOCIATION
ELECTION AND VOTING RULES
(2020)

Article I. Elections.

Elections of the Summer Place Homeowners Association (the "Association") regarding assessments legally requiring a vote, election and removal of directors, amendments to the governing documents, or the grant of exclusive use pursuant to Civil Code §4600 shall be held by secret ballot pursuant to California Civil Code §§5100-5145 and these rules.

Article II. Voting.

Section 1. Members' Right To Vote.

A. Who Is A Member.

Every person or legal entity who is an owner of a Lot in the Association shall be a member of the Association.

Additionally, the governing authority of a legal entity who is a member shall have the power to appoint a natural person to be a member for the purpose of these rules, and said natural person is included in the definition of member for the purpose of voting. (Civil Code §5105(b)(2).) Before casting a vote, the legal entity must advise the Association in writing, of the name and mailing address of the appointed natural person who is authorized to vote as a member on behalf of the entity.

B. Qualification To Vote.

In accordance with statute and the governing documents of the Association, only members of the Association are qualified to vote.

Members whose ownership of a Lot in the Association is reflected in the Association's records when the ballots are prepared for distribution, will be sent a secret ballot at least 30-days before the election, and will not be denied a ballot. A member whose record ownership of a Lot in the Association is not reflected in the Association's records at the time ballots were prepared for distribution, will be given a ballot upon providing the Association and/or the Inspector(s) of Election proof of recorded title ownership to said Lot.

A person holding a general power of attorney issued by a member qualified to vote under these rules, shall be permitted to vote for the giver of the power of attorney and will not be denied a ballot. (Civil Code §5105(g)(2),(3).) If there arise an issue of title, or an issue as to who is the designated member for a legal entity, the member may be asked to prove he/she is an owner of record or the Inspector(s) of Election may check title record, but are not required to do so. The Inspector(s) of Election has the final and complete authority to ultimately determine who is a record owner and who is a designated member for a legal entity.

Section 2. Votes Per Lot Owned.

Only one vote per property is permitted. Where there are two or more members on title to property in the Association, any one member may cast the vote for the property. Should two or more owners of a property seek to cast more than one vote, then all such votes will be disqualified unless prior to the counting of votes all owners of the property sign a statement giving authority to an individual(s) to cast the one vote for the property. During an election for the Board of Directors, the one vote per property is multiplied by the number of positions on the Board of Directors that are open for election, and the resulting number is the number of votes that may be cast by any one property. These vote may be cumulated as herein provided. After notice and a hearing, the Board of Directors may vote to suspend the voting rights of a member who is in default in the payment of any assessment levied by the Association. (Article VI, Section 13 of the Bylaws.)

Section 3. Cumulative Voting.

Cumulative voting is required for all elections of the Board of Directors where there are two or more vacancies on the Board. (Article VI, Section 2 of the Bylaws.

Article III. Nominations for Candidates To the Board of Directors.

Section 1. Notice and Call For Candidates.

The Board of Directors, acting as the nominating committee, authorizes management to provide a "Call for Candidates" to the membership, seeking qualified individuals for candidates to run for a seat on the Board of Directors of the Association. The Board of Directors may choose to appoint an Inspector(s) of Election to act as the nominating committee, who shall be authorized to provide a "Call for Candidates" to the membership, seeing qualified individuals for candidates to run for a seat on the Board of Directors of the Association.

Provided an individual is qualified to be a candidate, such individual may nominate his or herself by completing a written Candidate Statement and timely returning it to management or, if so designated, to the Inspector(s) of Election, on or before the stated deadline. Timely receipt as provided by these rules, of a qualified candidate's written Candidate Statement, shall place the candidate's name into nomination and said candidate's name shall appear on the Secret Ballot. Alternatively, provided an individual is qualified to be a candidate or Board Member, such individual may nominate his or her self from the floor of the meeting.

The Call for Candidates shall be given by general notice to members no later than 30-days before the deadline for submitting a nomination. (California Civil Code §5115 (a).) The Call for Candidates shall provide nominating procedures, qualifications for candidates, and set forth the deadline for receipt of nominations. (California Civil Code §5115 (a)).

Article IV. Candidates.

Section 1. Qualification of Candidates.

An individual is qualified to be a candidate to run for the Board of Directors, provided such individual is a member of the Association. (Article VI, Section 2 of the Bylaws.).

A person who is not a member, is not qualified to run for the Board of Directors. For the purposes of these rules, the appointment by the governing authority of a legal entity who is a member, shall have the power to appoint a natural person to be a member for the purpose of these rules; the natural person may vote as a member as provided by these rules and may be a candidate for the Board of Directors. (California Civil Code §5105(b).)

Section 2. Timely Notice.

In order to be a candidate on the ballot distributed to members, a member must timely respond to the Call for Candidates and return a Candidate Statement by the stated deadline. Individuals who have missed the deadline to respond to the Call for Candidates may be nominated from the floor at the time of annual meeting.

Section 3. Participation In IDR with Individual Not Qualified to be a Candidate.

With the exception of disqualification for failure to be a member of the Association, the Association shall not disqualify a person from being a candidate, without having provided the person the opportunity to participate in Internal Dispute Resolution under Article 2, Chapter 10 of the Civil Code commencing with §5900. (California Civil Code §5105 (e).) The Association hereby offers IDR to those individuals who are members, but who are not otherwise qualified to be a candidate under these rules.

Article V. Campaigning.

Section 1. Equal Access To Media.

All candidates and members advocating a point of view are provided equal access to the following, if available: association media, newsletter, internet website. Access is to be provided during a campaign, for purposes that are reasonably related to that election. The Association shall 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.

Section 2. Equal Access to Space.

If a common area meeting space is available during the campaign, then all candidates and members advocating a point of view, are permitted access to this space, for purposes reasonably related to the election.

Section 3. Campaign Funding.

Association funds shall not be used for campaign purposes in connection with any Association board election. Association funds may be used for campaign purposes in connection with any other Association election to the extent necessary to comply with duties of the Association imposed by law.

"Campaign purposes" means: expressly advocating the election or defeat of any candidate that is on the Association election ballot; including the photograph or prominently featuring the name of the candidate on a communication from the Association or its board, excepting the ballot and balloting materials, within 30 days of the election, provided that this is not a campaign purpose if the communication is one for which subdivision (a) of Civil Code §5105 requires that equal access be provided to another candidate or advocate. (Civil Code §5135.)

Article VI. Election.

Section 1. Election Meetings of the Membership.

A. Date and Time.

The annual membership meeting for the election of directors shall be in October of each year. Other membership meetings shall be held at a date, time and location determined by the Board.

If a quorum is not present to conduct a membership meeting, a membership meeting may be adjourned upon the vote of the members present, to a time not less than forty-eight (48) hours but not more than thirty (30) days from the original date of the meeting, and each adjournment thereafter, may also be adjourned for not less than forty-eight (48) hours but not more than forty-thirty (30) days from the date of the last adjournment, in either case, no further notice is required; and the quorum requirement shall be twenty-five percent (25%) of the voting power of the Association. (Article V, Section 6 of the Bylaws: and, California Corporations Code Section 7511(d).)

If a time and place for the adjourned meeting is not fixed by those in attendance at the meeting or if for any reason a new date is fixed for the adjourned meeting after the adjournment, notice of the time and place of the adjourned meeting shall be given to members in the manner prescribed for regular membership meetings. (Corporations Code §7511(d).)

B. List of Candidates for Board of Directors Election, General Notice and Balloting Information.

At least 30-days before the ballots are distributed, the Association will give general notice of: (1) 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 Election; (2) the date, time and location of the meeting at which ballots are to be counted; and (3) the list of candidates names should there be an election of Directors. (Civil Code §5115 (b).)

C. Notice.

Notice of the meeting shall be given by individual delivery on the date the Secret Ballots are sent to members, but no later than 30-days prior to the date of the meeting at which ballots are to be counted.

D. Delivery of Election Rules.

The election rules shall be delivered by general notice to members at least 30-days before the meeting at which members' ballots will be counted. .(Civil Code §5105(g)(4))B).)

E. Quorum.

The presence at a membership meeting, in person or by proxy, of members entitled to cast majority of the voting power shall constitute a quorum. (Article IV, Section 3 of the Bylaws.) If a meeting is continued because of lack of quorum then the quorum for the continued meeting shall be 25% of the total voting power of the Association. (Article V, Section 6 of the Bylaws.)

Each ballot received by the Inspector of Election(s) shall be treated as a member present at a membership meeting for the purposes of establishing a quorum. (Civil Code §5115(d).)

F. Deadline For Voting and the Polls.

The deadline for voting shall be at the time the polls are closed at the meeting at which ballots are to be counted. Polls shall be opened at the time ballots are mailed, and the polls shall be closed when the Inspector(s) of Election determine that all ballots, as reasonably possible at the time, have been received. If the meeting is adjourned for lack of a quorum, then the polls shall remain open to the date of the adjourned meeting; and then the Inspector(s) of Election shall determine when to close the polls.

G. Conduct Of Meeting.

A membership meeting shall be conducted in accordance with a recognized system of parliamentary procedure or any parliamentary procedure the Association may adopt. (California Civil Code Section 5000.) All persons must conduct themselves with decorum. An individual's failure to conduct his or her self with decorum will result in the individual being asked to immediately leave the meeting.

Section 2. Inspector(s) of Election.

A. Appointment.

The Board of Directors shall select an independent third party or parties as an Inspector(s) of Election. (Civil Code §5105(a)(5).) There shall be one (1) or three (3) inspectors. The Inspector(s) of Election will be appointed by the Board before the meeting at which ballots are to be counted. The Inspector(s) of Election are to be independent and shall not be a Board member, a candidate or someone related to a Board member or a candidate, and may not be a person, business entity, or subdivision of a business entity who is currently employed or under contract to the Association for any compensable services other than serving as an inspector of elections. (Civil Code §5110(b).)

B. Duties of Inspectors.

The Inspector(s) of Election shall perform his/her/their duties impartially, in good faith, to the best of his/her/their ability, and as expeditiously as is practical, and in a manner that protects the interests of all members of the association. 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(s) of Election is prima facie evidence of the facts stated in the report. (Civil Code §5110(b).) The duties of the Inspector(s) of Election are as follows:

1) Determine the number of memberships entitled to vote and the voting power of each;
2) Determine the authenticity, validity, and effect of proxies, if any;
3) Receive ballots;
4) Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote;
5) Count and tabulate all votes;
6) Determine when the polls shall open and close;
7) Determine the results of the election;
8) Perform any acts as may be proper to conduct the election with fairness to all members in accordance with the law and all applicable rules of the Association regarding the conduct of the election. (Civil Code §5110 (c).)

Section 3. Secret Ballots.

A Use and Issuance of Secret Ballots.

Voting is to be by secret ballot for the election of directors, removal of directors, amendments to the governing documents, or the grant of exclusive use common area pursuant to Civil Code §4600. The Association (or the Inspector(s) of Election appointed by the Board) will cause notice of the meeting and ballots to be sent by first class mail or delivered to all members at least 30 days prior to the initial deadline for voting. (Civil Code §5115.) Only ballots distributed by the Association (or by the Inspector(s) of Election appointed by the Board) shall be used for the election, for which they were distributed.

B. Form.

Voting is to be by secret ballot. A secret ballot and two pre-addressed envelopes with instructions on how to return the secret ballot shall be mailed by first-class mail or delivered to every member not less than 30 days prior to the initial deadline for voting. (California Civil Code Section 5115.)

C. Secret Balloting.

1) To insure confidentiality, the ballot is not signed, but is inserted into an envelope that is sealed, and this envelope is inserted into a second envelope that is sealed, addressed to the Inspector(s) of Election, and in the upper left hand corner the voter prints and signs his or her name and address which entitles him/her/them to vote. This outer envelope containing the inner envelope with the ballot may be hand delivered or mailed to the Inspector(s) of Election as herein set forth.

2) In order to be counted, ballots must be returned and received by the deadline set forth in the notice. Should the meeting at which ballots are to be counted is adjourned to a new date due to lack of quorum, then the envelopes containing ballots shall remain sealed and in the custody of the management company (or the Inspector(s) of Election appointed by the Board) until such time as quorum requirements are satisfied at an adjourned meeting of the members or when the Board determines such quorum cannot be reached and then the sealed ballot envelopes are to be retained pursuant to these rules.

D) Void Ballots.

In addition to any decision by the Inspector(s) of Election, failure by an individual to print, sign and properly address the outer envelope addressed to the Inspector(s) of Election, will result in the ballot contained in the inner envelope, to be void and of no effect, and the ballot will not be counted. (Civil Code §5115.)

Section 4. Proxies.

The Association will not regularly distribute proxies. Therefore, so as to comply with the requirements for a secret ballot process, any proxy prepared and or/used by an individual which directs the proxy holder how to vote, must include a separate detachable page for the direction, which can be detached and given to the proxy holder, and the proxy holder shall cast the member's vote by secret ballot. (Civil Code §5130.) Any proxy presented must comply with the law in form and substance. The Inspector(s) of Election shall authenticate, validate and determine the effect of any proxy presented.

Section 5. Tabulation of Votes.

All votes for election of directors are to be counted and tabulated by the Inspector(s) of Election in public at a properly noticed open meeting of the Board of Directors or a meeting of members, and may be witnessed by a candidate or member.

Section 6. Election Results And Retention of Association Election Materials.

The results of the election, but not the actual ballots, shall be recorded in the minutes of the next meeting of the Board of Directors and shall be available for review by members; and, within 15 days of the election, the Inspector(s) of Election (or the Board on behalf of the Inspector(s) of Election) shall notify members of the results of the election.

After the tabulation of the vote, the ballots shall be placed in a sealed envelope or container by the Inspector(s) of Election, and with the Association election materials, shall at all times be in the custody of the Inspector(s) of Election or at a location designated by the Inspector(s) of Election, for one (1) year from the date the membership was informed of the election results, and thereafter, the ballots and election materials shall be transferred to the Association and maintained with the Associations records.

"Association election materials" means returned ballots, signed voter envelopes, the voter list of names, parcel numbers, and voters to whom ballots were to be sent, proxies, and the candidate registration list.