

SEARIDGE OF COSTA MESA HOMEOWNERS ASSOCIATION

ELECTION RULES

Adopted September 8, 2020

These Election Rules (also known as Election Operating Rules) are intended to comply with the requirements of Senate Bill 323 and newly revised Civil Code Sections 5100-5145 effective January 1, 2020. These rules may be further amended due to future changes in the law. Provisions in the Governing Documents in conflict with the law shall be null and void.

I. CANDIDATE QUALIFICATIONS.

A candidate for the Board of Directors (“Board”) shall meet the following qualifications at the time of nomination:

1. The candidate must be a Member of the Association (i.e., record owner). If title to the property is held by a legal entity that is not a natural person (such as an LLC, corporation, trust, etc.), the entity shall have the right to appoint a natural person as the “Member” for these purposes.
2. The candidate must have been a Member of the Association for at least one (1) year. [OPTIONAL]
3. The candidate must be current in payment of the principal sum of regular assessments, and any special assessments. The Member shall be considered “current” if payments have been made under protest per Civil Code Section 5658, or the Member has entered into a payment plan pursuant to Civil Code Section 5665. [OPTIONAL]
4. The candidate must not have a joint ownership interest in the same Unit as a person who is already serving on the Board or who is re-running for a Board position. [OPTIONAL]
5. The candidate must not have a past criminal conviction that would, if elected, prevent the Association from obtaining, or would result in cancelation of, the Association’s fidelity bond coverage (crime/dishonesty insurance coverage). [OPTIONAL]
6. The candidate will be provided the opportunity to engage in Internal Dispute Resolution (“IDR”) (Civil Code Section 5900, et. seq.) with respect to any disqualification.

II. NOMINATING PROCEDURES.

The procedures for nominating a candidate for the Board are as follows:

1. Members may nominate themselves as a candidate if they meet the candidate qualifications.
2. A Member may nominate any other Member as a candidate, provided such nominee agrees to be nominated and meets the candidate qualifications.
3. Nominations of qualified candidates may be made from the floor at the annual meeting. \
4. The nominating committee may nominate qualified candidates.

III. CALL FOR CANDIDATES/NOTICE OF PROCEDURE AND DEADLINE FOR NOMINATION.

The Association shall provide general notice to the membership (and shall provide individual notice at a Member's request) of the procedure and deadline for submitting a nomination at least thirty (30) days before any deadline for submitting a nomination. The notice will include candidate qualifications and that the candidate has the right to participate in Internal Dispute Resolution if the candidate is subject to disqualification.

IV. NOTICE OF MEETING, LIST OF CANDIDATES, BALLOT DEADLINE AND RIGHT TO VERIFY ACCURACY OF MEMBER INFORMATION.

The Association shall provide general notice to the membership (and shall provide individual notice at a Member's request) of the following at least thirty (30) days before the ballots are distributed (which shall also serve as the record date):

1. The date and time by which ballots are to be returned, and physical address to which ballots are to be returned by mail or hand delivery to the Inspector.
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 (those nominated by the deadline for nomination and who meet the candidate qualifications) ("Candidate Registration List").
4. Members' right to verify accuracy of their individual information on the Candidate Registration List and the Voter List. The Voter List shall consist of a list of Members' names, voting power, and either the physical address of the voter's separate interest (Unit), the parcel number (i.e., APN), or both, and mailing address for the Member only if it differs from the physical address of the Member's separate interest or if only the parcel number is used. The Association or Members shall report errors/omissions on either list to the Inspector, which shall be corrected within two (2) business days.

V. VOTING RIGHTS.

Voting Power: Where more than one person holds an ownership interest in any Condominium, all of the owners thereof shall designate in writing to the secretary a "Voting Member" to exercise all of the voting rights in connection with the Condominium. In the event no such "Voting Member" has been designated with respect to a Condominium, then any person or representative of an entity holding an ownership interest in the Condominium may exercise all of the voting rights for the Condominium, unless there is a dispute among the common owners of the Condominium as to such exercise, in which event no voting rights shall be exercised with respect to the Condominium.

Cumulative Voting: In accordance with Article VI, Section 2 of the Bylaws, cumulative voting is required for the election of directors. Each member may cumulate his votes and give all of the votes which he is entitled to cast in the election to a single nominee or otherwise distribute them among the nominees, as he may desire, provided that no member shall cast in any election more than the total number of votes which he is entitled to cast pursuant to the Bylaws.

Qualifications for Voting: Members who are Owners (as defined in the Governing Documents) shall be entitled to receive a ballot. No Members' right to vote in elections defined in Civil Code Section 5100(a)(1) shall be suspended. Persons with a written general power of attorney for a Member shall be entitled to request a ballot on behalf of such Member. Only non-Members (i.e. tenants, non-record owners, etc.) may be denied a ballot.

Proxies: At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary before the appointed time of each meeting. Any proxy shall be valid for a term not to exceed eleven (11) months from the date of its execute unless the proxy provides for a longer duration, in which event the maximum term of such proxy shall be three (3) years from the date of its execution. Every proxy shall be revocable, but in the absence of its revocation shall continue in full force and effect unless, before the vote is counted, the member conveys his Condominium, or written notice of the death or incapacity of the member is received by the Association, in which event the proxy shall be deemed revoked.

In any election of directors, any form of proxy in which the directors to be voted upon are named therein as candidates, and which is marked by a member "withhold" or otherwise marked in a manner indicating that the authority to vote for the election of directors is withheld, shall not be voted either for or against the election of a director.

Quorum: A quorum of at least forty percent (40%) of the voting power of the Members is required for the transaction of business at membership meetings. If the membership meeting cannot be held because a quorum is not present, the Members present, either in person or by proxy, may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) after the initial meeting date, at which meeting the quorum requirement shall be twenty-five percent (25%) of the voting power of the Members. Each ballot received by the Inspector or its designee shall be treated as a Member for purposes of establishing a quorum.

Members present at a membership meeting in person or by proxy or by ballot shall be counted toward satisfaction of the quorum requirements specified herein.

Write-In Candidates: No candidates other than those listed on the official Association ballot or those qualified candidates nominated from the floor may be on the ballot. Members have the option of inserting a write-in candidate. [OPTIONAL AS TO WRITE-IN CANDIDATES]

VI. INSPECTOR(S) OF ELECTION.

Inspector(s): There may be one (1) or three (3) inspectors of election ("Inspector" or "Inspectors"). The Board shall have the authority to decide on the number of Inspectors and to appoint persons to fill those positions. An Inspector shall be an independent third party which may include a volunteer poll worker with the county registrar of voters, a licensee of the California Board of Accountancy, a notary public, and a Member of the Association who is not a member of the Board or a candidate for the Board, or related to a member of the Board or to a candidate for the Board. An independent third party may not be a person, business entity, or subdivision of a business entity who is currently employed by or under contract with the Association for compensation, other than persons/entities in the business of performing Inspector duties.

Duties of Inspectors: Inspectors may delegate the duties to be performed under California law, including but not limited to preparation and delivery of the notices and election material, correction of addresses on the Voter List, verification of Members' information and signatures on the sealed/signed voter envelopes, counting/tabulation of ballots and other duties pursuant to California law, to the property management company or another designee. However, the Inspector shall perform the following duties:

1. Determine the number of memberships entitled to vote and the voting power of each.
2. Determine the authenticity, validity, and effect of proxies pursuant to the Association's proxy rules.
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 close consistent with the governing documents.
7. Determine the tabulated 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 Civil Code, Corporations Code, and these Election Rules that are not in conflict with Civil Code Sections 5100 - 5145.
9. The Inspector shall perform all duties impartially, in good faith, to the best of the Inspector's ability, and as expeditiously as is practical. If there are three (3) Inspectors, 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 is prima facie evidence of the facts stated in the report.

VII. VOTING PROCEDURES.

Distribution of Material at Least Thirty (30) Days Before Election: Not less than thirty (30) days prior to the election/deadline for voting, the following shall be mailed by first-class mail or delivered to each Member:

1. A ballot and two (2) pre-addressed envelopes with instructions returning the ballot.
2. A copy of these Election Rules. If the Association has a website, notice of the Election Rules may be provided per Civil Code Section 5105(g)(4)(B)(i).

Voting By Secret Ballot: In order to preserve confidentiality, a voter will not be identified by name or address, or Unit/parcel number on the ballot. The ballot itself is not signed by the voter, but is to be inserted into an envelope that is sealed. This envelope is then inserted into a second envelope addressed to the Inspector. The voter then seals the outer envelope and in the upper left-hand corner prints and signs his/her name and address which entitles him/her to vote.

Voting Period: Ballots may be mailed or hand-delivered to the location/address specified by the instructions sent by the Inspector or its designee. The location for return of ballots shall be the property management company unless a different location is specified. The ballot must be received by the Inspectors before the end of the voting period or it will be disregarded. A Member may request a receipt upon delivery of a ballot. Once a secret ballot is received by the Inspector, it shall be irrevocable.

Tabulation of Ballots: The Inspector or its designee will count and tabulate all votes in public

at a properly noticed meeting of the Members or open meeting of the Board. Any candidate or other Member of the Association may witness the counting and tabulation of the votes in a manner so as to not violate the intent of preserving the confidentiality of Members' 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. The Inspector or its designee may verify the Member's information and signature on the outer envelope prior to the meeting at which ballots are tabulated.

Reporting Results: The Inspector will promptly report the results of the election to the Board. The Board will record the results in the minutes of the next meeting of the Board and make the results available for review by any Member at any time after the results are received from the Inspector. Within fifteen (15) days of the election, the Board shall give general notice pursuant to Civil Code Section 4045 of the tabulated results of the election.

VIII. RETENTION AND CUSTODY OF ELECTION RECORDS.

Before Election: The sealed ballots, signed voter envelopes, Voter List, proxies if any, and Candidate Registration List shall at all times remain in the custody of the Inspector or at a location designated by the Inspector until after the tabulation of the vote.

After Election: The following Association records shall also be retained by the Inspector after the election/tabulation until the time allowed by Civil Code Section 5145 for challenging the election has expired, at which time custody will be transferred to the Association: returned/cast ballots, signed voter envelopes, Voter List, proxies if any, and the Candidate Registration List.

Recount/Challenge: If there is a recount or other challenge to the election process, the Inspector shall, upon written request, make such records available for inspection and review by a Member or Member's authorized representative. Signed voter envelopes are subject to inspection but not copying. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.

IX. ACCESS IN CONNECTION WITH ELECTIONS.

Access to Association Media: If any candidate or Member advocating a point of view is provided access to Association media, newsletters, or internet websites during a campaign, for purposes that are reasonably related to that election, equal access shall be provided to all candidates and Members advocating a point of view, including those not endorsed by the Board, for purposes that are reasonably related to the 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.

Access to Association Meeting Space: The Association will provide access to the common area meeting space during a campaign to all candidates, including those who are not incumbents, and to all Members advocating a point of view, including those not endorsed by the Board, for purposes reasonably related to the election. Access shall be provided at no cost to the Members and candidates.

Campaign Fund Restrictions: Association funds shall not be used for campaign purposes in connection with any Association Board election. Funds of the Association will 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. Campaign purposes include, but are not limited to, the following: (a) expressly advocating the election or defeat of any candidate that is on the Association's election ballot; and (b) including the photograph or prominently featuring the name of any candidate on a communication from the Association or its Board, excepting the ballot and ballot materials, or a communication that is legally required in connection with an election. This restriction does not prevent distribution of campaign materials as otherwise specifically allowed under the equal access provisions of these rules.

X. MODIFICATION OF RULES.

These rules shall be construed in accordance with and are subject to further change pursuant to California law. No changes to these rules shall be made within ninety (90) days of an election.

(Sample Rule Change Cover Letter to be placed on Association Letterhead)

_____, 20__

To: All Members of Searidge of Costa Mesa Homeowners Association

RE: **(1) NOTICE OF PROPOSED CHANGES TO ELECTION RULES (Civil Code
Section 4340 *et. seq.*)**

**(2) NOTICE OF RIGHT TO COMMENT ON PROPOSED CHANGES AT
BOARD MEETING:**

Meeting Date: 10/13 2020__

Time: _____

Location: _____

Dear Members:

As you may be aware, the California legislature recently made changes to the laws governing elections for homeowners associations (known as Senate Bill 323). Due to such changes, the Association is required to update its Election Rules (also known as Election Operating Rules).

Enclosed please find the proposed updated Election Rules for your review. The purpose is to comply with the newly adopted provisions of California law. We anticipate the effect of such changes will be that the membership will be better informed of the updated rules pertaining to elections, including, but not limited to, candidate qualifications, nomination procedures, voting rights, notices and other aspects of the Association's election of Directors.

Most of the rules are required by California law; however, those changes which are in the Board's discretion are shown in underlined print in the attached rules. If you would like to offer any comment or objection to the proposed (underlined) revised Election Rules, please submit same in writing to management prior to the above-referenced meeting, or please attend the Board meeting to verbally inform the Board of your comments/objections. After considering any comments and discussion, the Board may adopt the rules at such meeting.

Thank you for your interest in this matter.

Sincerely,
Board of Directors
Searidge of Costa Mesa Homeowners Association

SEARIDGE OF COSTA MESA HOMEOWNERS ASSOCIATION

ELECTION TIMELINE

Election/Annual Meeting Date: _____, 20__

120 to 150 days prior to Election Date - Board meeting

_____, 20__ (approximately 30 to 60 days ahead of Candidate Registration List)

At the Board meeting:

1. Appoint Inspector of Elections.
2. Form Nominating Committee if required by Bylaws.
3. Propose new Election Rules (if needed) for comment from Membership.

90+ days prior to Election Date - Adopt any Election Rule changes

No later than _____, 20__

30+ days prior to notice of Candidate Registration List

_____, 20__ (more than 90 days from election date)

1. Notice of nomination procedure and deadline for nominations.
2. Inform of candidate qualifications and right to IDR if subject to disqualification.
3. Make deadline at least one week prior to preparing Candidate Registration List.
4. General Notice required, except for Members requesting Individual Notice.

30+ days prior to mailing of ballots/election package

_____, 20__ (more than 60 days before election date)

Notice of:

1. List of Candidates (Candidate Registration List)
2. Date/Time/Address where to send ballots
3. Date/Time/Address (notice) of annual meeting/election
4. Right of Members to verify accuracy of info on Candidate List and Voter List.
Print and retain copy of Candidate List and Voter List as Association record.
5. General Notice required, except for Members requesting Individual Notice.

30+ days prior to Election Date

_____, 20__ (at least 30 days before election date)

Mail election package:

1. Ballot and double envelopes
2. Copy of Election Rules (or notice of website where Election Rules are posted)

CIVIL CODE SECTION 5115(b)

“CANDIDATE INTRODUCTION LETTER”

- 1) **Notice of Election/Annual Meeting;**
- 2) **Notice of Date, Time and Location for Return of Ballots;**
- 3) **List of Candidates To Appear on Ballot (Candidate Registration List);**
- 4) **Right of Members to Verify Member Information on Candidate Registration List and Voter (Membership) List.**

Attention All Members:

The Searidge of Costa Mesa Homeowners Association hereby gives notice of the following with respect to the election of the Board of Directors, pursuant to Civil Code Section 5115(b). Please note that ballots will be mailed to the membership at least thirty (30) days prior to the election:

A. Notice of Election/Annual Meeting:

Date: _____, 20__

Time: _____

Location: _____

B. Notice of Date, Time and Location For Return of Ballots:

Ballots must be returned no later than _____, 20__ at _____ p.m. The physical address to which ballots are to be returned either by mail or by hand delivery is:

_____, CA _____

C. List of Candidates Who Will Appear on Ballot (“Candidate Registration List”):

1. _____
2. _____
3. _____
4. _____
5. _____

D. Right to Verify Accuracy of Member Information on Candidate Registration List and Voter List:

Members are permitted to verify the accuracy of their personal information on the Candidate Registration List above and the Voter List (name, Unit address, mailing address (if different from Unit address), etc. at least thirty (30) days before ballots are distributed. The last/most recent address on file with the Association will be used for mailing of ballots unless you designate otherwise. Please call or email management if you wish to verify your Member information and/or bring any errors to its attention. Errors or omissions will be corrected within two (2) business days.

Management can be contacted at: Powerstone Property Management, Attn.: Francine Shute, Community Manager, 9060 Irvine Center Drive, Suite 200 , Irvine, CA 92618 Email: fshute@powerstonepm.com, Tel: (949) 508 1567, Fax: (949) 716-3999.

**NOTICE OF PROCEDURE AND DEADLINE
FOR SUBMITTING NOMINATION OF CANDIDATES
FOR ELECTION OF BOARD OF DIRECTORS**

To All Members of Searidge of Costa Mesa Homeowners Association:

The Board of Directors of your Association is made up of volunteer owners who make important decisions on behalf of the Association, pursuant to the duties set forth under California law, the First Amended and Restated Declaration of Restrictions (“CC&Rs”), Bylaws, and other Association Governing Documents. If any Member who meets the qualifications stated in the Election Rules desires to be a candidate for election to the Board of Directors, the purpose of this notice is to inform you of the procedure and deadline for submitting a nomination, pursuant to Civil Code Section 5115(a):

I. Procedure for Nomination:

The candidate qualifications are attached. You may nominate yourself by notifying the management company designated below. (See attached form)

Nominations may also be made from the floor. Please note, however, that the Association encourages qualified candidates to submit their nomination at this time in order to be included on the official ballot.

II. Deadline for Submitting Nomination:

Nominations must be received no later than _____, 20____, at 4:00 p.m. via email or fax or regular mail to management as follows:

Board of Directors
Searidge of Costa Mesa Homeowners Association
c/o Powerstone Property Management
Attn.: Francine Shute, Community Manager
9060 Irvine Center Drive, Suite 200
Irvine, CA 92618
Email: fshute@powerstonepm.com
Tel: (949) 508 1567
Fax: (949) 716-3999

The Association shall not disqualify a person from nomination without first providing the Member with the opportunity to engage in Internal Dispute Resolution (“IDR”) pursuant to Civil Code Section 5900, *et. seq.* You may request a copy of the Election Rules by contacting management. Election Rules will also be sent out with the list of candidates.

Thank you for your interest and participation in the Association’s election of Directors.

Sincerely,
The Board of Directors
Searidge of Costa Mesa Homeowners Association