
LAKE DON PEDRO OWNERS' ASSOCIATION

ELECTION RULES

The following Election Rules are adopted in accordance with California Civil Code Section 1357.100 *et seq.* and pursuant to the authority of the Association's governing documents, and are intended to comply with California Civil Code Section 1363.03 and shall apply to elections regarding (1) Assessments, (2) selection of directors, (3) removal of directors, (4) amendments to the governing documents, (5) grants of exclusive use of common area property pursuant to California Civil Code Section 1363.07, and (6) any other matter that may be the subject of a vote of Association Members. Unless the context clearly indicates otherwise, capitalized terms used herein shall have the same meaning as in the Association's governing documents.

Section 1 Elections Regarding Selection of Directors

This Section 1 shall apply to elections regarding selection of directors.

A. **Nomination of Candidates.** In addition to any nomination procedures set forth in the Association's Bylaws (except as noted below), Members shall become candidates for election to the Board of Directors as follows: No less than 45 days before the Association mails out the ballot packets, the Association shall send a notice to all Members inviting eligible Members to become candidates for election to the Board (the "Candidate Solicitation Notice"). The Candidate Solicitation Notice, which may be presented in the Association's regular newsletter, shall state all of the following:

1. interested Members must notify the Association, in writing, that they would like to be a candidate;
2. in order to be eligible to become a candidate, a Member must be a Member for at least three years prior to election and must be a Member in Good Standing for at least one year prior to election, as of the date he or she submits his or her written notice of desire to be a candidate;
3. in order to be eligible for election to the Board, a candidate must be a Member for at least three years prior to election and must be a Member in Good Standing for at least one year prior to election, as of the date scheduled for close of the balloting period;
4. candidates and Members advocating a point of view may, but are not required to, submit a statement (hereafter, "Director Election Statement") which shall not exceed one side of a single 8-1/2 x 11 inch page and which shall be reasonably related to the election, and by submitting a Director Election Statement, the author accepts full responsibility for the content thereof and agrees to indemnify the Association and its agents and representatives for any and all damage arising from and related to any such content; and
5. the written notification of desire to be a candidate and the Director Election Statement must either be mailed, hand delivered or e-mailed to the Association at the address(es) designated by the Board of Directors for that purpose, and must be received by the Association no later than 5:00 p.m. on the date that is 30 days after the date the Candidate Solicitation Notice was mailed to the Members, and it is each Member's responsibility to

confirm that his or her written notification and Director Election Statement were received by the Association.

Each Member who wishes to become a candidate must submit a written notification to the Association indicating the Member's desire to become a candidate. Candidates and Members advocating a point of view may, but are not required to, submit a Director Election Statement which shall not exceed one side of a single 8-1/2 x 11 inch page and which shall be reasonably related to the election. Any such written notification and any Director Election Statement must either be mailed, hand delivered or e-mailed to the Association at the address(es) designated by the Board of Directors for that purpose, and must be received by the Association no later than 5:00 p.m. on the date that is 30 days after the date the Candidate Solicitation Notice was mailed to the Members. It is each Member's responsibility to confirm that his or her written notification and Director Election Statement were received by the Association. Each eligible Member whose written notification is timely received by the Association shall automatically be a candidate. There shall be no nominations from the floor at membership meetings.

B. Qualifications for Candidacy and Election to the Board.

1. In order to be eligible to become a candidate, a Member must be a Member for at least three years prior to election and must be a Member in Good Standing for at least one year prior to election, as of the date he or she submits his or her written notice of desire to be a candidate.

2. In order to be eligible for election to the Board, a candidate must be a Member for at least three years prior to election and must be a Member in Good Standing for at least one year prior to election, as of the date scheduled for close of the balloting period.

C. Access to Association Media and Common Area Meeting Space. The Association shall ensure that the legal requirements set forth in California Civil Code Section 1363.03(a)(1) and (2) are met by implementing the following:

1. Candidates and Members advocating a point of view may, but are not required to, submit a Director Election Statement which shall not exceed one side of a single 8-1/2 x 11 inch page and which shall be reasonably related to the election. All Director Election Statements must be received by the Association prior to 5:00 p.m. on the date that is 30 days after the date the Candidate Solicitation Notice was mailed to the Members. The Association shall not edit or redact any content from the Director Election Statements. By submitting a Director Election Statement, the author accepts full responsibility for the content thereof and agrees to indemnify the Association and its agents and representatives for any and all damage arising from and related to any such content. No other access to Association media, newsletters or Internet Web sites shall be provided to any candidate or Member advocating a point of view during a campaign for purposes that are reasonably related to the election.

2. Access to common area meeting space, if any exists, shall be provided during a campaign to all candidates and Members advocating a point of view for purposes reasonably related to the election, at no cost, subject to procedural rules as may be adopted by the Board to assure orderly use of such meeting space.

D. **Content of Ballots.** Each candidate's name shall be included on the official ballot form, listed in alphabetical order by last name. The ballots shall further state all of the following:

1. the number of directors to be elected;
2. that cumulative voting is permitted, and thus each Lot is entitled to the number of votes equal to the number of directors to be elected, to be cast as desired (i.e., the Member may cast all votes for one candidate or may divide those votes among any combination of candidates, but is not allowed more votes than the number of directors to be elected);
3. the date and time the balloting period will close; and
4. the Board shall have the power to extend the balloting period if sufficient ballots have not been received to establish a quorum.

E. **Distribution of Ballot Packets.** Not less than 30 days prior to the date scheduled for the close of the balloting period, the Association shall mail, via first-class U.S. mail, one ballot packet to each Member. Each ballot packet shall contain all of the following:

1. one official ballot;
2. black-and-white copies of all Director Election Statements timely received by the Association;
3. a statement specifying that the Association was not permitted to edit or redact any content from the Director Election Statements and thus the author of each Director Election Statement, and not the Association, is responsible for the content of his or her Director Election Statement;
4. two sealable envelopes, a smaller (inner) envelope and a larger (outer) envelope; and
5. instructions on how to vote using the two-envelope system.

The smaller envelope shall be marked with the words "Inspector of Election" on the front of the envelope. There shall be no other distinguishing markings on the smaller envelope. The larger envelope shall be pre-addressed to the Inspector of Election at the address specified by the Inspector of Election. The larger envelope shall contain *either* blank lines in the upper left hand corner for the voter to sign his or her name, indicate his or her name, and indicate the address or separate interest identifier that entitles him or her to vote *or* a pre-printed label that indicates the voter's name and the address or separate interest identifier that entitles him or her to vote and contains at least one blank line for the voter to sign his or her name.

F. **Rules Regarding Voting Using the Two-Envelope System.**

1. The ballot shall not be signed.
2. Once completed, the (unsigned) ballot must be inserted into the smaller envelope and the envelope must be sealed. This sealed envelope containing the completed ballot must then be inserted into the larger (outer) envelope and the envelope must be sealed.

3. In the upper left-hand corner of the larger sealed envelope, the voter shall sign his or her name, indicate his or her name, and indicate the address or separate interest identifier that entitles him or her to vote.

4. The Inspector of Election has the power to invalidate any ballot if the ballot or either envelope does not comply with subparagraphs 1 through 3, above.

5. Once a ballot is cast, it cannot be revoked. A ballot is deemed "cast" when it is received at the location(s) designated by the Inspector of Election.

6. The sealed envelopes shall remain in the custody of the Inspector of Election, or at a location designated by the Inspector of Election, at all times prior to completion of the tabulation process.

7. Unless prohibited by the Inspector of Election, the Association shall be entitled to maintain a log of all envelopes received (the "Envelope Log") and to put all envelopes in the order designated by the Inspector of Election. The envelopes shall not be opened until the Inspector of Election instructs them to be opened.

G. **Balloting Period.** The balloting period shall begin on the date the ballots are distributed and shall close at such time and on such date established by the Board, which shall be not less than 30 days from the date the ballot packets are mailed to the Members. Ballots received after that time will not be accepted or counted.

H. **Inspector of Election.**

1. *Appointment and Term.* The Board shall appoint one or three persons to serve as the Inspector of Election. Each Inspector of Election shall serve at the pleasure of the Board until he or she resigns, is discharged by the Board, or submits the completed written "Report of Inspector of Election" to the Board as required by subparagraph (3)(j), below.

2. *Qualifications.* The Inspector of Election shall be an independent third party or a person who is currently employed or under contract to the Association for any compensable services, except that no person shall serve as an Inspector of Election if he or she is:

- (i) a member of the Board or a candidate for the Board; or
- (ii) related to a member of the Board or a candidate for the Board.

3. *Duties and Powers.* The Inspector of Election shall do all of the following:

- a. specify one or more locations to which the envelopes containing the ballots must be mailed or delivered by hand;
- b. determine the number of memberships entitled to vote and the voting power of each;
- c. determine the authenticity, validity, and effect of proxies, if any;

- d. receive ballots;
- e. hear and determine all challenges and questions in any way arising out of, or in connection with, the right to vote;
- f. count and tabulate all votes;
- g. determine when the polls close, consistent with the governing documents;
- h. determine the tabulated results of the election;
- i. perform any acts as may be proper to conduct the election with fairness to all Members in accordance with California Civil Code Section 1363.03, the California Corporations Code, and all applicable rules of the Association regarding the conduct of the election that are not in conflict with this California Civil Code Section 1363.03; and
- j. prior to conclusion of the Board meeting at which the ballots are counted and tabulated, prepare and submit to the Board a written "Report of Inspector of Election" in such format as may be determined or agreed to by the Board.

The 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. 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. The Inspector of Election may appoint and oversee additional persons to verify signatures and to count and tabulate votes as the Inspector of Election deems appropriate, provided that the persons are independent third parties. In addition to the foregoing, the Inspector of Election shall have all powers of an inspector of election as set forth in California Corporations Code Sections 7517 and 7614 and other applicable provision of California law.

I. Opening of Envelopes / Counting and Tabulation of Ballots.

1. No envelope containing a ballot may be opened prior to the time at which the ballots are to be counted and tabulated.
2. Envelopes may only be opened and ballots tabulated if a sufficient number of envelopes exist to meet the quorum requirement for Member action under the governing documents. In the event that there are not enough envelopes to meet the quorum requirement, the Inspector of Election shall not proceed with opening the envelopes and shall notify the Board that a quorum has not been established.
3. The envelopes shall be opened and the ballots shall be counted and tabulated in public, at a properly noticed Board meeting which may, but need not, be scheduled to take place concurrently with the Annual Membership Meeting.
4. Only the Inspector of Election, or individuals designated by the Inspector of Election, shall open the envelopes and count and tabulate the ballots.

5. Members may witness the opening of the envelopes and the counting and tabulation of the ballots.

6. Each ballot envelope received by the Inspector of Election shall be treated as a Member present at a meeting for purposes of establishing quorum.

J. Election Results.

1. The Inspector of Election shall promptly report the tabulated results of the election to the Board. The Board shall record the results in the minutes of the next Board meeting by attaching the Report of Inspector of Election as an exhibit to such minutes and shall make the results available for review by Members.

2. Within 15 days following the close of the balloting period, the Board shall publicize the tabulated results of the election in a communication directed to all Members.

K. Custody, Storage and Retention of Ballots.

1. Immediately after reporting the tabulated results of the election to the Board, the Inspector of Election shall transfer physical custody of the envelopes, Envelope Log, and any tally sheets to the Association. The ballots shall remain in the custody of the Inspector of Election until the time allowed by California Corporations Code Section 7527 for challenging the election has expired, at which time the Inspector of Election shall transfer physical custody of the ballots to the Association.

2. In the event of a recount or other challenge to the election process, the Inspector of Election 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 preserves the confidentiality of the vote.

3. After the transfer of the ballots to the Association, the ballots shall be stored in a secure place for at least one year after the date of the Board meeting at which the ballots were counted and tabulated.

Section 2 Elections Regarding Other Specific Matters

This Section 2 shall apply to elections regarding (i) Assessments, (ii) removal of directors, (iii) amendments to the governing documents and (iv) grants of exclusive use common area property pursuant to California Civil Code Section 1363.07.

A. Access to Association Media and Common Area Meeting Space. The Association shall ensure that the legal requirements set forth in California Civil Code Section 1363.03(a)(1) and (2) are met by implementing the following:

1. If the Association provides access to Association media, newsletters, or Internet Web sites during a campaign to any Member advocating a point of view for purposes that are reasonably related to the election, then all Members advocating a point of view for purposes that are reasonably related to the election shall have equal access to the forum provided. The Association shall not edit or redact any content from these communications; however, the Association may include a statement specifying that the

Member, and not the Association, is responsible for the content of the communication, and that the Association was required by law to publish the communication verbatim, regardless of content.

2. Access to common area meeting space, if any exists, shall be provided during a campaign to all Members advocating a point of view for purposes reasonably related to the election, at no cost, subject to procedural rules as may be adopted by the Board to assure orderly use of such meeting space.

B. **Content of Ballot.** Each ballot shall contain:

1. the identification of the matter that is the subject of a pending Member vote;
2. a statement that the balloting period will close at such time and on such date established by the Board, which shall be not less than 30 days from the date of the ballot packets are mailed to the Members; and
3. a statement that the Board shall have the power to extend the balloting period if sufficient ballots have not been received to establish a quorum.

C. **Distribution of Ballot Packets.** Not less than 30 days prior to the date established by the Board for the close of the balloting period, the Association shall mail, via first-class U.S. mail, one ballot packet to each Member. Each ballot packet shall contain all of the following:

1. one official ballot;
2. two sealable envelopes, a smaller (inner) envelope and a larger (outer) envelope; and
3. instructions on how to vote using the two-envelope system.

The smaller envelope shall be marked with the words "Inspector of Election" on the front of the envelope. There shall be no other distinguishing markings on the smaller envelope. The larger envelope shall be pre-addressed to the Inspector of Election at the address specified by the Inspector of Election. The larger envelope shall contain *either* blank lines in the upper left hand corner for the voter to sign his or her name, indicate his or her name, and indicate the address or separate interest identifier that entitles him or her to vote *or* a pre-printed label that indicates the voter's name and the address or separate interest identifier that entitles him or her to vote and contains at least one blank line for the voter to sign his or her name.

D. **Rules Regarding Voting Using the Two-Envelope System.** See Section 1, Paragraph F of these Election Rules.

E. **Balloting Period.** See Section 1, Paragraph G of these Election Rules.

F. **Inspector of Election.** See Section 1, Paragraph H of these Election Rules.

G. **Opening of Envelopes / Counting and Tabulation of Ballots.** See Section 1, Paragraph I of these Election Rules.

H. **Election Results.** See Section 1, Paragraph J of these Election Rules.

I. **Custody, Storage and Retention of Ballots.** See Section 1, Paragraph K of these Election Rules.

Section 3 General Election / Voting Provisions

This Section 3 shall apply to all member voting matters including, without limitation, elections regarding (i) Assessments, (ii) selection of directors, (iii) removal of directors, (iv) amendments to the governing documents and (v) grants of exclusive use common area property pursuant to California Civil Code Section 1363.07.

A. **Qualifications for Voting.** The Association has one class of voting Membership. Only Members in Good Standing and not suspended (as defined in Section 6.01 of the Association's Bylaws) are entitled to vote.

B. **Voting Power of Memberships.** In director elections, each Member shall be entitled to cast one vote for each vacant seat being filled. In all other matters, each Member shall be entitled to cast one vote for each Lot owned by such Member.

C. **Proxies.**

1. Because voting in elections regarding (1) Assessments, (2) selection of directors, (3) removal of directors, (4) amendments to the governing documents and (5) grants of exclusive use of common area property pursuant to California Civil Code Section 1363.07 (collectively, the "Secret Ballot Topics") are to be conducted by secret ballot in accordance with California Civil Code Section 1363.03(b) and these Election Rules, proxies are not permitted in connection with elections regarding Secret Ballot Topics.

2. The authenticity, validity and effect of proxies with respect to any other member voting matter shall be as set forth in the Association's Bylaws, as such Bylaws may be amended from time to time, and in California law.

LAKE DON PEDRO OWNERS' ASSOCIATION

ELECTION RULES

If this document contains any restriction based on race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.