

# **ELECTION RULES**

**for**

## **HIGH SIERRA PROPERTY OWNERS ASSOCIATION, INC.**

**(Adopted July 20, 2009)**

**(Amended November 12, 2013)**

**(Civil Code §1363.03)**

Pursuant to Civil Code §1363.03, the Board of Directors (“Board”) of High Sierra Property Owners Association, Inc. (“Association”) hereby adopts the following rules governing elections at the Association:

### **Access to Association Media**

Any candidate or member may have access to Association media for the purpose of stating their point of view for purposes related to any election, even if the Board's point of view is different. Currently, the following media is available to the Members of the Association: Website [<http://highsierrameadows.homestead.com/>]. In the event the Association allows candidates to submit or disburse written materials in connection with one's candidacy for the Board, the Association will not edit any written materials submitted by a candidate or member but may state that the candidate or member, and not the Association, is responsible for the content [Civil Code §1363.03(a)(1)].

### **Access to Common Area Facilities**

Any candidate or member may have access to the Association common-area facilities for the purpose of stating a point of view reasonably related to any election, at no cost, including candidates who are not incumbents. The common-area facilities of the Association consist of the kiosk at the front gate. Such access to common-area facilities is subject to any and all rules that may be adopted by the Board from time to time.

### **Qualifications for Candidates**

Qualifications for candidates for the directors of the Association are set forth in Article IV, Section 3 of the current Bylaws.

### **Nomination Procedures**

The Board shall adopt reasonable procedures for nominating candidates to the Board; provided, however, any member of the Association can nominate himself or herself for election to the Board.

## **Uncontested Elections**

If the number of candidates nominated for the board of directors is equal to or less than the number of open seats available and the election is uncontested, then balloting by secret ballot shall not be necessary. In such a case, the qualified candidates properly nominated shall be elected by acclamation.

### **Inspector(s) of Elections: Selection and Duties**

There shall be one or three inspector(s) of elections, which shall be appointed by the Board [Civil Code §1363.03(a)(5)(a)]. The inspector(s) of elections shall be appointed not less than ninety (90) days prior to the date of the election.

The inspector(s) of elections shall be an independent party or parties, not a Board Member and not a candidate. Inspector(s) of elections may include, but are not required to include, a notary public, a Certified Public Accountant, or a registered poll worker. The inspector(s) of elections may be a person or persons employed or under contract with the Association for compensation. The inspector(s) of elections shall do all of the following:

- Determine the number of memberships entitled to vote and the voting power of each;
- Determine the authenticity, validity, and effect of any proxies, if any;
- Receive ballots;
- Hear and determine all challenges and questions with regard to the right to vote;
- Count and tabulate the votes;
- Determine when the polls close;
- Determine the result of the election; and
- Perform any other acts that are necessary to the election, with fairness to all, and in accordance with any Association rules [Civil Code §1363.03(c)].

### **Voting and Ballots**

Ballots shall be mailed to all owners of record not less than thirty (30) days prior to the election. The polls shall be open from the time of the mailing of the ballots until they are closed by the inspector(s) of elections at the meeting called to count the ballots. If the Board establishes a record date for balloting purposes, then only the owners of record, as of the date upon which the Association decided who can vote (The Record Date), shall be entitled to a ballot. Anyone who owns a Lot, as of that date and is in good standing, is entitled to vote. If there is no record date, then owners of record, as of the date of mailing, shall be entitled to a ballot.

Ballots and two preaddressed envelopes with instructions on how to return the ballots shall be mailed to members as provided above. The ballots will be voted by owners of record in the following manner [Civil Code §1363.03(e)]:

- The ballot will not have information on it that identifies the person voting the ballot;

- The ballot will be inserted into the first envelope;
- The first envelope will be inserted into the second envelope, which will be addressed to the inspector(s) of elections to be mailed or delivered to the address of the inspector(s) of elections. The second envelope shall be signed by the owner entitled to vote, together with an address and/or Lot number identifying the right to vote;
- If any owner marks a ballot in a way that identifies that owner, the owner waives any right of privacy of the ballot;
- Any owner may request a receipt for his or her ballot;
- The inspector(s) of elections shall designate the place for custody and storage of the ballots until delivered to the inspector(s) of elections at the meeting for opening and tabulation;
- Once a ballot is cast, it shall be irrevocable; and
- The inspector(s) of elections will be designated the "Ballot Collector" and ballots will be addressed to the inspector(s) of elections, c/o the Ballot Collector.

### **Proxies**

Voting by proxy shall be allowed; however, the Association will not mail proxies to owners. Any proxy that directs the manner in which a vote is to be cast, shall set forth the instruction on a detachable page that states how the proxy is to be cast and the proxyholder shall vote the proxy by secret ballot [Civil Code §1363.03(d)].

Proxies shall not be used in lieu of a ballot at a meeting. If any proxies are submitted, they will be registered after the secret ballots have been registered to ensure no irrevocable ballot has also been received from the same member submitting the proxy. Proxies submitted by envelope are not permitted.

No proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided in the proxy, except that the maximum term of any proxy shall be three (3) years from the date of execution. Every proxy continues in full force and effect until revoked by the person executing it prior to the vote pursuant thereto, except as otherwise provided in this section. Such revocation may be effected by a writing delivered to the Association stating that the proxy is revoked or by a subsequent proxy executed by the person executing the prior proxy and presented to the meeting, or as to any meeting by attendance at such meeting and voting in person by the person executing the proxy. A member's proxy shall be revoked upon conveyance of his or her Lot.

### **Counting Ballots**

The ballots shall be counted by the inspector(s) of elections at an open meeting called for that purpose and properly noticed. Candidates and members may watch the count [Civil Code §1363.03(f)]; however, they may not interfere with the count and must stand or sit at a distance that is not less than five (5) feet from the counting area.

No person, including a member of the Association shall open or review the ballots before they are counted by the inspector(s) of elections.

The results of the election shall be communicated to all members not later than fifteen (15) days after the election. The results shall be recorded in the minutes of the next meeting of the Board and shall be available for inspection upon request of any member [Civil Code §1363.03(g)].

### **After the Election**

Prior to the election, the ballots shall be in the possession of the inspector(s) of elections or such person designated as the "Ballot Collector." After the election, the ballots shall promptly be turned over to the Association and shall be stored in a secure place for no less than one (1) year. Upon written request, ballots shall be made available to any member or his or her representative for review and inspection. Any recount shall assure the confidentiality of the election [Civil Code §1363.03(i)].

### **Applicability of Rules**

These rules shall apply to: Elections of the Board; amendments to the governing documents; assessment elections; votes to allow exclusive use of common area; and any other elections as specified in Civil Code §1363.03, as may be amended or replaced.