

**VENETO COMMUNITY ASSOCIATION
ELECTION RULES**

ARTICLE 1 GENERAL

- 1.1 Intent. These Rules have been adopted with the intent to comply with Civil Code sections 5100 through 5130, as adopted by the California Legislature as part of Senate Bill 323, effective January 1, 2020, and shall apply to Member voting: (i) to elect or remove Members of the Board of Directors; (ii) regarding annual and special assessments; (iii) regarding amendments to the governing documents; (iv) regarding the granting of exclusive use of common area property; and (v) at the discretion of the Board of Directors, regarding any other matter that may be the subject of a vote of Association Members.
- 1.2 Effective Date. These rules shall become effective upon the date of adoption by the Board of Directors.
- 1.3 Definitions. Unless separately defined within these rules, capitalized words have the same meaning as defined within the Declaration of Conditions, Covenants, and Restrictions for the Association.
- 1.4 General Notice. Civil Code section 5115 requires the Association to provide general notice of election matters. For the purposes of these rules, “General Notice” shall mean notice provided by:(i) individual notice pursuant to Civil Code section 4040; (ii) inclusion with newsletters, billing statements, or other routine correspondence; (iii) posting in a prominent location, presuming such location has been previously disclosed as the Association’s annual policy statement.

ARTICLE 2 INSPECTOR OF ELECTIONS

- 2.1 Selection. The Board shall appoint one or three Inspector(s) of Elections who shall perform all of the functions required by Civil Code section 5105 and 5110, including:
- (a) Voting Rolls. Determine the number of Members entitled to vote and the voting power of each;
 - (b) Ballot Custodian. Receive and be the custodian of ballots, and direct the location to which ballots shall be sent until tabulated by the Inspector(s) of Election;
 - (c) Correct Errors. Correct errors or omissions on the candidate registration list (if any) and/or voting list within two business days of the errors or omissions being reported, with receipt of satisfactory documentary evidence;
 - (d) Review Challenges. Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote;
 - (e) Vote Tally. Count and tabulate all votes;
 - (f) Proxy Evaluation. Determine the authenticity, validity, and effect of proxies, if any;
 - (g) Poll Deadline. Determine when the polls shall close, with the discretion to extend the deadline for voting as necessary;

- (h) Results. Determine the results of the election and report the results of the election to the Board of Directors.
- 2.2 Eligibility. Eligibility to Serve as an Inspector of Elections:
 - (a) All Non-Candidate; Non-Serving Members. Any Association Members who are not Members of or candidates for the Board of Directors nor relatives of Members or candidates for the Board of Directors; and
 - (b) Independent Third-Party. An individual third party who is not currently employed or under contract to the Association for any compensable services other than serving as an Inspector of Elections.
- 2.3 Compensation. The Association may, at the discretion of the Board of Directors, provide reasonable compensation to the Inspector(s) of Elections.
- 2.4 Assistants. The Inspector(s) of Elections may appoint and oversee additional persons to verify signatures and to count and tabulate votes as the Inspector(s) deem appropriate, provided that the appointed persons would themselves be eligible to serve as Inspector(s) of Elections.
- 2.5 Member Challenge. If a Member is selected to serve as the Inspector of Election, that appointment may be challenged by any Member by petition to the Board prior to the mailing of ballots. The effect of such a challenge shall be the requirement for the Board to secure a qualified non-Member for the position.
- 2.6 Indemnification. The Association shall indemnify, defend, and hold harmless any Inspector of Elections, and any agents or employees of an Inspector of Elections, and any volunteers assisting an Inspector of Elections regarding any Association election, unless the claim is due to gross negligence or willful misconduct.
- 2.7 Use of Association Legal Counsel. An Election Inspector shall have the right to directly consult with the Association's legal counsel regarding any matter related to an Association election, membership meeting, or vote by the Members.

ARTICLE 3 OBLIGATIONS OF THE INSPECTOR(S)

- 3.1 Pre-Election. Prior to the election, the Inspector(s) of Elections shall do the following:
 - (a) Eligible Voter List. Review and verify an eligible voter list which identifies each Member eligible to vote, their mailing address, Lot or Unit identification, and the voting power of each Member. The list may be created by the Association.
 - (b) Eligible Candidate List. Review and verify a list of all eligible candidate for inclusion on the ballot.
 - (c) Ballot Inspection. Review and verify the ballot prior to mailing and ensure compliance with ballot contents described in Section 5.7, below.
- 3.2 During Voting Period.

- (a) Receive Ballots. Inspector(s) of Elections shall monitor the receipt of submitted ballots in a manner that ensures they are not tampered with following their receipt. Inspector(s) may direct administrative staff to maintain a log of all received ballots noting whether the envelope was signed or not. An Inspector may contact Members and seek their signatures upon the envelope if missing.
- (b) Effect of Receipt. Regardless of signature, a ballot is irrevocable once received by the Inspector(s) of Elections.
- (c) Proxy Votes. If proxy voting is prohibited by the Bylaws, proxy voting shall not be permitted. If permitted based on the election matter, and the Association issues proxy forms, it shall do so in a manner that allows the Inspector of Elections to validate the proxy and issue a separate secret ballot to the proxy holder.

3.3 Examination of the Ballots. At the appointed time, the Inspector(s) of Elections shall:

- (a) Open Meeting. The tabulation of the vote shall occur at a properly noticed open meeting.
- (b) Quorum. If a quorum is necessary for the matter being voted upon, each received ballot shall be treated as a member present at the meeting.
- (c) Proxies. The Inspector(s) of Elections shall evaluate the proxy forms prior to issuance of a ballot to a proxy holder.
- (d) Signature Verification. The Inspector of Elections, or their designees, may verify the signatures upon the outer envelope prior to the time of tabulation. At the time of tabulating the vote, the Inspector of Election may announce and permit a member to sign, any envelope they failed to sign at time of mailing.
- (e) Witnesses. Any Member may witness the counting and tabulation of the ballot, however, no Member may communicate with an Inspector of Elections during the process and must remain at least five (5) feet away from the ballots. The Inspector of Elections shall have the power to remove any observer who interferes with the tabulation process.
- (f) Announcement of Results. The Inspector of Elections shall announce to all present the results of the election and deliver that information to the Board Members present at the open meeting for recordation in the minutes of the meeting.

3.4 Retention Of Materials. The Inspector of Elections shall maintain all documentation, including signed outer envelopes and votes until one year following the tabulation of votes. Unless requested by the Association, the Inspector of Elections may dispose of the materials at that time.

3.5 Effect of a Tie.

- (a) Election For A Position. A tie between two candidates shall be resolved by the placing of both names into a bowl for selection at random by the then-serving president of the Board or their designee.
- (b) Election Involving A Rule Change. A tie results in the change not passing.

ARTICLE 4 CANDIDATE NOMINATIONS

- 4.1 Notice Of Nomination Period. At least 30 days prior to the deadline for nomination, the Association shall provide General Notice of the procedure and deadline for nomination as a candidate for the Board.
- 4.2 Procedure For Nomination – Self-Nomination. A Member may nominate themselves as a candidate for the Board or other open position as applicable by notifying the Association’s managing agent or Board in writing. The nominee must declare themselves free of any past criminal conviction that would prevent the Association from maintaining fidelity bond coverage required by Civil Code section 5806.
- 4.3 Procedure For Nomination – By Board. The Board may directly nominate candidates for the Board, subject to the same deadlines and disclosure obligations for self-nominated Members.
- 4.4 Disqualifying Facts. A candidate shall be disqualified for any of the following reasons:
- (a) Membership. A candidate must be a Member of the Association prior to the close of nomination;
 - (b) Current On Assessments. A candidate shall not have unpaid regular or special assessments, to the extent the bylaws require the same of current Board members;
 - (c) Criminal Conviction. The candidate may not have a criminal conviction that would prohibit the Association from maintaining fidelity bond coverage required by Civil Code section 5806.
 - (d) Joint Ownership. A candidate must not be a member due to joint ownership of property that would result in both joint owners serving on the Board at the same time.
- 4.5 Uncontested Elections. Unless prohibited by California law, and notwithstanding anything contained in the Association’s governing documents to the contrary, if, at the end of the published deadline for nominees, the total number of candidates for election to the Board is equal to or less than the number of seats to be filled at the election, then those candidates are deemed elected to terms that shall commence upon the expiration of the predecessors' terms and the Association can dispense with distributing ballots and conducting the election. If the number of Directors so elected is less than the number of seats to be filled at the election, the incoming Board of Directors shall fill the vacancy(ies) as provided for in the Association's Bylaws. In addition, in the event of any vacancy on the Board of Directors, whether or not during an election, such vacancy shall be addressed in accordance with the procedures outlined in the Association’s Bylaws.

ARTICLE 5 BALLOTS

- 5.1 All Candidates. The Association shall include all candidates for the Board of Directors positions being voted on in the election.
- 5.2 Alphabetical Order. The ballot shall list each candidate by name, in alphabetical order based on last name.

- 5.3 No Write-In Candidates. The ballot shall not permit write-in candidates.
- 5.4 Any Other Matter. The ballot shall contain any other matter that is the subject of a member vote;
- 5.5 Notice of Ballots. At least 30 days prior to the distribution of ballots, the Association shall provide General Notice of:
- (a) The date and time by which ballots must be returned;
 - (b) The location to which physical ballots must be returned;
 - (c) The name of the Inspector(s) of Elections;
- 5.6 Member Eligibility To Vote. Except with respect to cumulative voting, each Association Member shall be entitled to a single vote with regard to each matter subject to a vote on the ballot. For the purposes of voting, all record owners of a single separate Lot or Unit shall collectively constitute one Association Member. A Member shall not be denied a ballot unless they were not a Member at the time the ballots were distributed. A party holding a general power of attorney may exercise the voting rights of the Association Member.
- 5.7 Cumulative Voting for Director Elections. Cumulative voting is permitted for Director elections, and thus each Member is entitled to cast 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).
- 5.8 Verification Of Member Information. A Member may verify or correct, through satisfactory documentation, any individual information on the Association's voting list by presenting such documentation to the Inspector(s) of Elections.
- 5.9 Ballot Contents. The ballot shall include:
- (a) Two Sealable Envelopes. One envelope shall have no markings to identify the voter and shall be identified as the voting envelope. One envelope shall be marked as the mailing envelope and shall be pre-addressed to the address chosen by the Inspector(s) of Election. The mailing envelope shall identify the Member, address, and Lot or Unit number. It shall include a space for the Member to sign their ballot.
 - (b) Instructions. Information to aid the Member in properly submitting their secret ballot pursuant to the double-envelope ballot procedure.
 - (c) Voting Quorum, Deadline, And Meeting. Notice of the initial date and time the ballot must be received as well as notice for the date and time of the meeting at which the ballots will be opened and tabulated, provided a quorum is established by the receipt of cast ballots. The notice shall also include the quorum requirements and a statement that the balloting period may be extended if sufficient ballots have not been received to establish a quorum.
 - (d) Voting Rules. Either a copy of these voting rules or posting to an internet website with notice to the Member, in at least 12 point font, "The rules governing this election may be found here:"

ARTICLE 6 CANDIDATE ACCESS TO ASSOCIATION MEMBERS

- 6.1 Advocacy Blackout. No candidate, Association Member, or the Association and its Board, shall be allowed to access any form of Association media, including but not limited to newsletters, bulletin boards, websites, or social media pages to advocate for a point of view between the time the ballots are mailed and the polls close. Association media shall not include direct mail, personal delivery, or individual emails.
- 6.2 Not Advocacy. The following items shall not be deemed advocacy:
- (a) Get Out The Vote. Efforts to promote and encourage members to cast their votes, “Get Out The Vote”.
 - (b) Descriptions Of The Election Purpose. If a rule change is being proposed, a description of the purpose and effect of the rule change may be provided, however, the description may not advocate for passage of the change.
 - (c) Annotated Text Of The Measure. A factual summary of the changes to the governing documents accompanying the text of the proposed amendments shall be permitted, however, the description must not advocate for passage of the amendment.
- 6.3 Equal Access. Prior to the blackout period described in Section 6.1, above, each candidate shall be granted equal access to Association communication materials (websites, newsletters, social media pages, etc.) to the extent the Association permits advocacy materials to be posted by any party. If the Board permits advocacy materials for an election, the following candidate and member advocacy statement requirements shall be included with the notice provided pursuant to Section 4.1 (for Director elections) or 5.4 (for all other elections) to ensure all parties have equal access:
- (a) Advocacy Statements. If the Board permits advocacy statements, candidates and Members advocating a point of view may, but are not required to, submit an advocacy statement which (1) when printed, shall not exceed one side of a single 8½" x 11" page and (2) shall be reasonably related to the election. Each Member’s advocacy 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 at such address(es) prior to the nomination or election deadlines established pursuant to Section 4.1 or 5.4, above. It is each Member’s responsibility to confirm that such Member’s advocacy statement was received by the Association prior to the Nomination Deadline.
 - (b) Responsibility for Advocacy Statement’s Contents. By submitting an advocacy statement, the Member accepts full responsibility for the content thereof and agrees to indemnify the Association, the Board of Directors, the Inspector(s) of Election, and all other Association agents and representatives for any and all damage arising from or related to any such content.
- 6.4 Association Funds Prohibited. The Association may not expend Association funds towards advocacy efforts. The Association may expend funds on Get Out The Vote efforts.

- 6.5 Section 5105(a)(1) Compliance. The above sections specify the manner in which the Association shall comply with Civil Code section 5105(a)(1).

ARTICLE 7 ADDITIONAL PROCEDURES

- 7.1 Notification of Members. The Board shall cause notice of the results of the election be transmitted to all members within 15 days of the meeting.
- 7.2 Recount; Challenge. In the event of a recount or challenge to the determination, the Inspector of Elections, upon a written request, shall make available the election materials to the Member challenging the election or their representative. The mailing envelopes may be inspected but may not be copied. The Association shall be entitled to redact anyone's mailing address of any Member who has opted out of the Membership List and voter list. Any recount shall be conducted in a manner to retain the confidentiality of the vote.

Exhibit "A" **Elections Checklist**

The dates shown below are the minimum necessary dates. The Association can choose to extend the time for each, but doing so may require earlier compliance with a deadline.

90 Days Before Election Day: This is the date by which the Association must notify Members of any deadlines for submitting a nomination for an open position.

Tasks:

- Choose an Inspector of Elections. The Board shall select an Inspector of Elections. If election is solely for rule changes, this may occur at Election Day -60.
- The Board shall determine the date upon which the election will be held at a public meeting.
- Members must be notified of the election date and procedures to self-nominate for open positions.
- The Board shall decide whether to permit candidate and member advocacy statements and all applicable requirements if statements are permitted.
- The Board may appoint a nominating committee as well.

60 Days Before Election Day: This is the date Members shall be given General Notice about the election. If election does not involve candidates, this may serve as the first election-related deadline.

Tasks:

- Verify Candidate List.
- Verify Members eligible to vote along with associated information.
- Verify Date, Time, and Location for tabulation meeting.
- Verify Date, Time, and Location for returning ballots.
- Ensure Association provides this information to its Members.

30 Days Before Election Day: This is the day the ballots must be sent to the Members.

Tasks:

- Verify the Ballot Packet
- Enclose Election Rules Or Provide Website Notice
- Provide Voting Instructions
- Date, Time, & Address For Mailed Return
- Date, Time, & Location for Vote Tabulation meeting.

- Voting Envelope – Identified as where to place the ballot
- Mailing Envelope – Identified as such including spaces for:
 - Identification of voter
 - Place for signature
 - Mailing address of Inspector of Elections
- Ensure Ballots are mailed out at least 30 days before the deadline for returning the ballots.

Election Day: This is the day the ballots will be retrieved, opened, and tabulated.

Tasks:

- Gather mailing envelopes.
- If an envelope is missing a signature, you may announce the Member's name to allow them to sign the ballot. Because the ballot was irrevocable once received, the Member cannot substitute an in person vote for the mailed ballot. If not signed, the ballot may be rejected and remain unopened.
- Identify whether sufficient ballots have been received to allow the election to continue (rule changes, not elections for positions).
- Open each outer envelope and place the voting envelope in a separate pile.
- Mix the inner envelopes to ensure the secret ballot remains secret.
- Open each inner envelope and tabulate the result.
- Announce the final result before all assembled.
- Provide a written statement of the vote to the Board members present.
- The results should be recorded in the minutes of the meeting.

Within 15 Days Of Election Day: The Board of Directors shall communicate the result of the election to all members within 15 days.