
ELECTION RULES

LOS GATOS HIGHLANDS MAINTENANCE CORPORATION

(Adopted _____, 2015)

ARTICLE I MEDIA

Section 1. Any candidate for election or Member advocating a point of view shall be provided access to Association media, newsletters, or Internet Web sites during a campaign, for purposes that are reasonably related to that election.

Section 2. 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.

Section 3. 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.

ARTICLE II ACCESS/ASSOCIATION FUNDS

Section 1. Equal access to the common area meeting space, if any exists, shall be made available during a campaign, at no cost, 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.

Section 2. Notwithstanding any provision herein to the contrary, Association funds shall not be used for campaign purposes in connection with any Association Board election. Funds of the Association shall 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. For the purposes of this section "campaign purposes" include, but are not limited to, the following: (1) expressly advocating the election or defeat of any candidate that is on the Association election ballot; and (2) 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, within thirty (30) days of an election, provided that this is not a campaign purpose if the communication is one for which subdivision (a) of Section 5105 of the Civil Code requires that equal access be provided to another candidate or advocate.

ARTICLE III QUALIFICATION

Section 1. A candidate must be a Member of the Association or a designee of Declarant.

ARTICLE IV NOMINATION PROCEDURE

Section 1. Nomination for election to the Board may be made by a Nominating Committee. The Nominating Committee shall consist of a Chairman who shall be a Director and two other persons who shall either be voting Members of the Association or the designee of the Declarant. So long as there are two classes of membership, the Declarant shall be entitled to designate a member of the Nominating Committee and such designee shall be entitled to nominate a candidate for each Directorship to be voted upon by the Members. The Nominating Committee shall be appointed prior to each annual meeting and shall serve from the close of such annual meeting until the close of the next annual meeting.

Section 2. No Member of the Association may be disallowed from nominating himself or herself for election to the Board of Directors.

Section 3. A candidate may be elected by acclamation when no other candidate has been nominated for election to the Board of Directors.

ARTICLE V SECRET BALLOTS

Section 1. Elections shall be held by secret ballot. Except for the meeting to count the votes as required in Section 5120(a) of the Civil Code, an election may be conducted entirely by mail.

Section 2. Ballots and two preaddressed envelopes with instructions on how to return ballots shall be mailed by first-class mail or delivered by the Association to every Member not less than thirty (30) days prior to the deadline for voting. In order to preserve confidentiality, a voter may not be identified by name, address, or lot, parcel, or unit number on the ballot. The Association shall use as a model those procedures used by California counties for ensuring confidentiality of voter absentee ballots, including all of the following: (1) the ballot itself is not signed by the voter, but is inserted into an envelope that is sealed. The envelope is inserted into a second envelope that is sealed. In the upper left hand corner of the second envelope, the voter prints and signs his or her name, address, and lot, or parcel, or unit number that entitles him or her to vote; and (2) the second envelope is addressed to the inspector or inspectors of election, who will be tallying the votes. The envelope may be mailed or delivered by hand to a location specified by the inspector or inspectors of election. The Member may request a receipt for delivery.

Section 3. All votes shall be counted and tabulated by the inspector or inspectors of election in public at a properly noticed open meeting of the Board of Directors or Members. Any candidate or other Member of the Association may witness the counting and tabulation of the votes. No person, including a Member 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.

Section 4. The sealed ballots at all times shall be in the custody of the inspector or inspectors of election or at a location designated by the inspector or inspectors until after the tabulation of the vote.

ARTICLE VI INSPECTORS

Section 1. The Association shall select an independent third party or parties as an inspector of election. The number of inspectors of election shall be one or three. The Association may appoint itself as the inspector of election.

Section 2. For the purposes of this section, an independent third party includes, but is not limited to, a volunteer poll worker with the County registrar of voters, a licensee of the California Board of Accountancy, or a notary public. An independent third party may be a Member of the Association, but may not be a Member of the Board of Directors or a candidate for the Board of Directors or related to a Member of the Board of Directors or a candidate for the Board of Directors.

Section 3. The inspector or inspectors of election shall do all of the following: (A) determine the number of memberships entitled to vote and the voting power of each; (B) determine the authenticity, validity, and effect of proxies, if any; (C) receive ballots; (D) hear and determine all challenges and questions in any way arising out of or in connection with the right to vote; (E) count and tabulate all votes; (F) determine when the polls shall close; (G) determine the result of the election; and (H) perform any acts as may be proper to conduct the election with fairness to all Members.

Section 4. An 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. Any report made by the inspector or inspectors of election is prima facie evidence of the facts stated in the report.

Section 5. The results of the election shall be promptly reported to the Board of Directors of the Association and shall be recorded in the minutes of the next meeting of the Board of Directors and shall be available for review by the Members. Within fifteen (15) days of the election, the Board shall publicize the results of the election in a communication directed to all Members.

ARTICLE VII RECORD RETENTION

Section 1. After tabulation, election ballots shall be stored by the Association in a secure place for no less than one year after the date of the election. In the event of a recount or other challenge to the election process, the Association 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 shall preserve the confidentiality of the vote.

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