



## **Voting & Election Rules**

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### **SECTION 1** **INTRODUCTION**

The Alta Verde Condominium Homeowners Association (hereinafter “Association”) has adopted the following rules, policies, and procedures for conducting the Association’s voting and election processes in response to amendments to the California Civil Code which took effect on January 1, 2020.

It is the Association’s intent to ensure the most comprehensive and balanced guidelines for our Members. To accomplish this goal, we have made the required revisions with you, the Homeowner, in mind. We sincerely hope our efforts in compiling these policies and procedures will assist you in understanding the voting process and will serve to encourage you to participate in the Association’s decision-making process.

The following rules, procedures and policies apply to all matters of the Association that are regulated or otherwise controlled by a Membership voting requirement or ratification. This includes the selection or removal of Directors, amendments to the Association’s Governing Documents, regular assessment increases that exceed the authority of the Board, special assessments, and the granting of exclusive use of common area property.

These guidelines do not contain all the information that may apply to your rights and responsibilities in the matters that require you to vote. The Association’s CC&Rs and Bylaws contain additional provisions and should also be reviewed by you, along with the voting policies and procedures, in order to guarantee a complete and thorough understanding of these matters.

### **SECTION 2** **GENERAL INFORMATION**

2.1 In accordance with the Association’s Governing Documents, all persons who meet the qualifications set out in Section 3 are eligible to run for Director positions.

2.2 No Association funds shall be expended for the purposes of campaigning in connection with any vote or election other than those funds specifically required to distribute required correspondences, notices, or forms that may contain the names of Director Candidates or descriptions of issues being voted upon. Specifically excluded is the expenditure of association funds for the purposes of expressly advocating approval, election, or defeat of any matter or Director Candidate.



**SECTION 3**  
**CANDIDATE QUALIFICATIONS**

- 3.1 Director Candidates must be Members of the Association and must meet any other qualifications set forth in the Governing Documents for the Association.
- 3.2 Director Candidates, as of the date ballots are distributed, must meet the following criteria to be eligible for election: 1) must be current in the payment of Regular and Special assessments; 2) must not have a joint ownership interest, either directly or indirectly, in the same Unit/Lot as another candidate or incumbent Director; 3) must have been a Member of the Association for not less than one (1) year; and 4) must not have a past criminal conviction that, if elected, would either prevent the Association from purchasing the fidelity bond coverage required by Civil Code §5806 or terminate the Association's existing fidelity bond coverage.
- 3.3 Notwithstanding the foregoing, the Director Candidate shall not be disqualified for failure to be current in payment of Regular and Special assessments if either of the following circumstances is true:
- 3.3.1 The Candidate has paid the Regular or Special assessment under protest pursuant to Civil Code §5658;
  - 3.3.2 The Candidate has entered a payment plan pursuant to Civil Code §5665.
- 3.4 Furthermore, the Association shall not disqualify the Director Candidate pursuant to this section if he or she has not been provided the opportunity to engage in Internal Dispute Resolution pursuant to Civil Code §§5900-5920.
- 3.5 If title to a Unit/Lot is held by a legal entity that is not a natural person, the governing authority of that legal entity shall have the power to appoint a natural person to be a Member for purposes of running for and serving on the Board.
- 3.6 These same qualifications must be met to continue to serve on the Board if elected. The Board may declare vacant the seat of any Director who ceases to meet the qualifications for a Director set forth in this section upon the occurrence of the non-qualifying event, and the Director's seat shall then be deemed vacant in accordance with the Association's Bylaws and/or the Corporations Code.

**SECTION 4**  
**NOMINATION PROCEDURES**



- 4.1 The Association shall distribute the Board of Director Applications/Request for Director Candidates on a form of their choosing at least thirty (30) days before any deadline for submitting a nomination. Such form may be sent electronically to those Members who have opted into receiving election communication in lieu of paper mailings.
- 4.2 Any qualified Member of the Association may nominate himself or herself for election to the Board.
- 4.3 If a Director Candidate does not meet the qualifications set forth in Section 3 above, that Director Candidate's name shall not appear on the ballot and that person will not be permitted to serve if elected.
- 4.4 The Inspector of Election shall be charged with the review and consideration of all Director Candidate application submissions. Such duty may be delegated to a Nominating Committee, Inspector of Elections or other third party, but in no event shall this duty be delegated to a Director Candidate or anyone related to a Director Candidate. Review shall entail verification that the Director Candidates meet all requisite qualifications as of the date of review.

## **SECTION 5**

### **INSPECTORS OF ELECTION**

#### **5.1 Selection of Inspectors**

- 5.1.1 Inspector(s) of Election shall be appointed by the Board in an open meeting. The Board shall have the power to remove an Inspector who ceases to meet the required qualifications, is unable or unwilling to perform his duties, or for other good reason, and to appoint a new inspector in his place.
- 5.1.2 The Inspector must be an independent third party who is not: a) Currently a Member of the Board or a Director Candidate or related to a Board Member or a Director Candidate; and b) A person, business entity, or subdivision of a business entity who is currently employed or under contract to the Association for any compensable services other than serving as an Inspector of Elections.
- 5.1.3 The Inspector(s) of Election, as appointed, may be any one of the following independent third parties: volunteer poll worker with the County Registrar of Voters, Licensee of the California Board of Accountancy, Notary Public, or other qualified person.
- 5.1.4 The Board may authorize payment of Association funds to any third party appointed to serve as Inspector(s) of Election. However, no payment may be authorized for any Association Member appointed as Inspector(s) of Election.



5.2 Number of Inspectors. The Inspector(s) of Election shall be comprised of either one or three persons. In no case shall an Inspector(s) of Election panel be comprised of an even number of Inspectors. If there are three (3) Inspectors of Election, the decision or act of a majority shall be effective in all respects as the decision or act of all.

5.3 Duties of Inspectors. The Inspector(s) of Election shall be responsible to perform the following tasks associated with any vote or election:

- 5.3.1 Determine the number of Members entitled to vote and the voting power of each.
- 5.3.2 Retain both a candidate registration list and a voter list. The voter list shall include the name, voting power, and either the physical address of the Member's Unit/Lot, the parcel number, or both. The mailing address for the ballot shall be listed on the voter list if it differs from the physical address of the Member's Unit/Lot or if only the parcel number is used. The Association shall permit Members to verify the accuracy of their individual information on both lists at least thirty (30) days before the ballots are distributed. The Association or Member shall report any errors or omissions to either list to the Inspector or Inspectors who shall make the corrections within two business days.
- 5.3.3 Determine authenticity, validity and effect of submitted proxies, if any.
- 5.3.4 Receive ballots (set address for the submission ballots).
- 5.3.5 Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.
- 5.3.6 Determine poll closure time consistent with the governing documents, if actual voting is to take place at the meeting.
- 5.3.7 Counting and tabulation of all ballots.
- 5.3.8 Determine results of voting.
- 5.3.9 The Inspector(s) of Election, or his or her designee, may verify the Member's information and signature on the outer envelope prior to the meeting at which ballots are tabulated.
- 5.3.10 Perform any other acts that are necessary and proper to conduct the election with fairness to all Members in accordance with Association rules which are NOT in conflict with Civil Code §5110, the Corporations Code and all applications rules of the Association.



5.4 Performance of Duties. The Inspector(s) of Election shall perform his or her duties impartially, in good faith, to the best of his or her ability, and as quickly as possible.

## **SECTION 6**

### **CAMPAIGN PROTOCOLS**

- 6.1 During election periods all Director Candidates shall have equal access to the Association's Media, including, but not limited to, newsletters, websites, and bulletin boards, but only for purposes that are reasonably related to the election. The issue of "equal access" shall be determined solely by the Board. The Board shall have the power to uniformly decline such access at their sole discretion.
- 6.2 Regarding Director Candidate or Member writings intended for distribution to the Members, the Association shall also include a statement specifying that the Director Candidate or Member, and not the Association, is responsible for the content of the communication. Regardless whether such a statement is made, the Association is not responsible for the content of any such communication.
- 6.3 No submission for distribution shall be edited for content. Modifications to formatting may be made so as to allow for space and/or media restrictions. If any formatting modifications should become necessary, they shall be applied equally to all submissions and at no time shall any formatting be applied that may signify a preference or partiality.
- 6.4 Any expense that may be required for the distribution of submitted materials shall be borne solely by the submitting party. These expenses may include, but are not limited to, administrative services, reproduction costs, postage, and supplies. Any costs shall be approved and paid by the submitting Member prior to distribution.
- 6.5 The Association shall provide at no cost, access to any Association owned common area meeting space, if any, to any Member or Director Candidate advocating a point of view or opinion during the campaign period. The use of the common area meeting space must be for purposes reasonably related to the election. Any such use of the common area facilities shall be regulated by any existing rules or regulations for such use.
- 6.6 All requests for access to the common area facilities for campaigning purposes must be submitted in writing, shall be made in advance, and are subject to first-come priority scheduling. The Board, in its sole discretion, may reasonably limit a Director Candidate's or Member's access to common area facilities in order to facilitate equal access for other Director Candidates and Members.

## **SECTION 7**

### **VOTING**



- 7.1 Voting Membership Qualifications. All Members of the Association shall be entitled to vote in any membership vote. All Members are entitled to a ballot and no Member shall be denied a ballot for any reason other than not being a Member of the Association at the time when ballots are distributed. Ballots may be distributed to a person with a general power of attorney for a Member.
- 7.2 Voting by Members. In any voting matter of the Association, each Member, as defined in the Association's Governing Documents, shall be entitled to a single vote for each separate interest owned and for which regular assessments have commenced against such separate interest.
- 7.3 Format and Scope. All membership voting related to the following shall be conducted by secret ballot: Election of Directors, amendments to the Association's Governing Documents, regular assessment increases which exceed the authority of the Board, special assessments, a vote to recall the Board or a Director, and the granting of exclusive use of common area property. To the extent that the legislature later expands the areas to which this secret ballot process applies, these policies and procedures shall automatically include the areas added by the legislature.

## **SECTION 8** **PROXIES**

- 8.1 Distribution. Proxies will not be mailed out to the Members as part of the election package unless the Board directs otherwise; however, proxies may still be used by the Members if voting is to actually occur at a Member meeting, otherwise proxies will not be permitted.
- 8.2 Content. All Proxies shall be consistent in content with the established guidelines as set forth in the Association's Governing Documents or as may be mandated by applicable law.
- 8.3 Format. All proxies shall include a separate sheet that will be formatted to allow the Member to provide instruction for the proxy holder on each matter to be voted upon, which separate sheet may be detached and given to the proxy holder to retain. Any proxy which does not comply with this Section shall be deemed invalid. The proxy may be revoked by the Member prior to the receipt of the ballot by the Inspector(s) of Election as described in Section 7613 of the Corporations Code.
- 8.4 Validity. Except as permitted by the Governing Documents or by law, no Proxy shall be valid for a period exceeding eleven (11) months from the date of its execution.
- 8.5 Proxy Warning. Due to the legal requirement concerning the form of proxy, the Inspector(s) of Election will not be able to verify that the proxy holder has voted in a manner consistent with what is directed on the proxy form. Members are therefore warned that voting by proxy effectively allows a proxyholder to vote in all cases however the proxyholder deems fit.



## **SECTION 9**

### **BALLOTS**

- 9.1 Distribution. Ballots shall be distributed along with two pre-addressed (2) envelopes and instructions for submission via first class mail or hand delivery. Distribution shall be made not less than thirty (30) days in advance of the meeting.
- 9.2 Content. Ballots shall contain the names of all Director Candidates who have been nominated in accordance with the established guidelines, and/or a description of any other matter being addressed in the voting. Ballots shall not contain any identification indicators related to the voter, including names, addresses, and unit or lot numbers. Ballots shall not be signed by the voter. Write-in candidates are not permitted.
- 9.3 Submission. Ballots voted prior to the meeting date shall be enclosed in a sealed envelope, that is sealed and then inserted into a second envelope that is sealed. In the upper left-hand corner of the second envelope, the voter shall print and sign his or her name, address, and lot, or parcel, or unit number in the Association that entitles him or her to vote. The second envelope shall be addressed and sent to the Inspector(s) of Election to be retained until the completion of tabulating. The envelope may be mailed or delivered by hand to the specified location. Ballots which do not comply with these requirements shall not be counted.
- 9.3.1 Ballots submitted to the Inspector(s) of Election shall be held in their sealed envelopes until the date of the meeting, at which time such ballot envelopes shall be opened. In no case shall any ballot be opened, viewed, or otherwise reviewed prior to the date and time that has been established for the tabulation of said ballots. However, the Inspector(s) or their designees may verify the Member's information and signature on the second (outer) envelope prior to official tabulation. Once the ballot has been received by the Inspector(s) of Election it may not be revoked or otherwise recalled. If more than one ballot is received for any Unit/Lot, the Inspectors of Election shall determine its validity.
- 9.3.2 All voting by ballot must utilize the official Association form and envelopes. Reproductions and copies will not be accepted. To the extent that a Member loses or otherwise spoils his or her ballot, a new ballot may be requested from the Association and the new ballot shall be promptly sent to the requesting owner.
- 9.3.3 Once a ballot has been cast, it cannot be revoked.
- 9.3.4 If a quorum is required by the governing documents, each ballot received by the Inspector(s) of Election shall be treated as a Member present at a meeting for purposes of establishing a quorum.



- 9.3.5 Adjourned Meetings – handling of ballots: If the meeting for purposes of tabulation is adjourned to another date due to lack of quorum, prior to the reconvened meeting date new ballots and two pre-addressed envelopes may be issued to all Members who have NOT previously voted by ballot. Ballots which are mailed or hand-delivered to the Inspector(s) of Election or which remain properly in the possession of the Inspector(s) of Election from the first meeting shall be valid for the reconvened meeting.
- 9.4 Tabulating. The Inspector(s) of Election shall tabulate all ballot submissions in public view at a properly noticed meeting of the Board or Members.
- 9.4.1 The counting and tabulation shall be done in public.
- 9.4.2 Any Director Candidate or Member may witness the counting and tabulation of votes from a reasonable distance and provided that they do not disrupt the process in any manner whatsoever. Members observing the process must stand at least five (5) feet back from the area of counting and tabulation and not communicate or otherwise interfere with the Inspector(s) in any manner whatsoever. Anyone violating these requirements shall be asked to leave the meeting.
- 9.4.3 The Inspector(s) of Election will certify the tabulated results of voting by completing a report. The report will be signed by the Inspector(s) and will certify the correctness thereof to the best of the Inspector(s) belief.
- 9.4.4 In the event of a tie vote among any number of Director Candidate(s) for the Board, the Association will notice a new Meeting and send Ballots to all Members for the vote to break the tie. Such vote shall be conducted in accordance with the procedures set forth herein, to the extent applicable to a run-off vote. No previously cast ballots shall be used at the meeting to break the tie.
- 9.5 Retention. After the election, the ballots, vote list, candidate registration list and any Proxies shall be retained by the Association for a period of one (1) year. At the expiration of the retention period all election materials will be destroyed.
- 9.6 Challenge. In the event of a properly noticed challenge, the ballots shall be made available for review and inspection by the challenging Member(s) and/or his or her legally appointed representative as permitted by law.

**SECTION 10**  
**ELECTION RESULTS**

- 10.1 The results of the election shall be promptly reported to the Board of the Association.





10.2 The results shall be recorded in the minutes of the next meeting of the Board and shall be available for review by Members.

10.3 Within fifteen (15) days of the election, the Board shall publicize the results of the election in a written notice to the Members.

**SECTION 11**  
**NON-DIRECTOR VOTING**

11.1 When voting on other matters besides director elections, and which come under the scope of California Civil Code § 1363.03, the Association shall generally use the procedures outlined above, but the Board may adjust the procedures to account for differences between director elections and the election at hand, e.g., special assessments, increasing the regular assessment, amendments, recall of the Board/Director and the grant of exclusive use of common area.