

VALENCIA FAIRWAYS HOMEOWNERS' ASSOCIATION, INC.
a California Non-Profit Corporation

ELECTION RULES

(Effective _____ 2020)

The following Election Rules have been adopted by the Board of Directors, pursuant to Civil Code ("C.C.") §5105 and the Bylaws of Valencia Fairways Homeowners' Association, Inc.

I. ELECTION OF DIRECTORS

A. Nomination of Candidates

1. Nominees may be appointed as follows: A nomination form may be submitted to management by any Owner intending to run for a Board position in an election. Owners may also nominate other Owners if the Nominee agrees to run for election and serve on the Board. Neither Nominations from the floor nor write-in candidates shall be permitted.¹
2. The Association shall provide general notice of the procedure and deadline for submitting a nomination for the Board at least one hundred (100) days prior to the Election. ("Nomination Notice"). Notice can be made by including it in billing statements, a newsletter, posting this in a prominent location accessible to all members, or by Individual Delivery to each member. This notice may be sent by e-mail to those members consenting to such delivery.²
3. Nomination Deadline. All nominations to be included in the ballot must be delivered to the manager no later than seventy (70) calendar days before the Election.
4. Candidate Qualifications. (Pursuant to changes in the law on January 1, 2020, after the Bylaws were approved by the Owners. These Rules control as to qualifications.)³

A. A candidate must be an owner of record of a Unit to qualify for

¹ Restated Bylaws, Article III, §3.3

² Civil Code §5115

³ Civil Code §5105

nomination to the Board of Directors.

- B. Only one Owner per Unit may qualify as a candidate for and serve on the Board at any time.
 - C. A candidate must be an Owner for at least one (1) year at the time of nomination.
 - D. A candidate must not have a past criminal conviction which would prevent the Association from purchasing fidelity bond insurance. The candidate will be disqualified if the Board becomes aware of a criminal conviction which would prevent the acquisition of fidelity bond coverage.
 - E. A candidate must be current in the payment of regular and special assessments, except that a member who has entered into a payment plan with the Association or has made payments under protest. If the candidate has not been provided the opportunity to engage in Internal Dispute Resolution with the Board as required by Civil Code Section 5900, the candidate is qualified to be nominated and serve on the Board.
5. Notice of Meeting. A list of qualified consenting candidates/nominees shall be sent to each member ("Candidate List"), along with notice of the date, time and place of where to send ballots, notice of the date, time and place of the ballot counting meeting, a statement of member's right to verify accuracy of both the Candidate List and the Voter List, and a statement of a member's right to request individual delivery of the above items shall be sent to members at least sixty (60) days prior to the Election.⁴
6. At least thirty (30) days prior to the meeting at which the ballots will be counted, *the Inspector of Election* shall send to each member on the Voter List a secret ballot, 2 pre-addressed envelopes, instructions on how to return the ballots, and a copy of these Election Rules or a statement on the ballot in 12 point font: "The rules governing this election may be found

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Civil Code §5105

here (website where Rules may be posted).”⁵

B. Inspectors of Election⁶

1. The Board, by majority vote, shall appoint one, three or five independent persons as Inspector(s) of Election at least seventy (70) days before the secret ballot is mailed to the members. An Inspector(s) is permitted to appoint and oversee additional persons to verify signatures and to count and tabulate votes as the inspector(s) deem appropriate, provided that the persons are independent third parties.
2. An independent person includes, but is not limited to:
 - A. A member of the Association provided that member is not a Director, a candidate for Director, or related to a Director or to a candidate for Directors;
 - B. A volunteer poll worker with the county registrar of voters;
 - C. A licensee of the California Board of Accountancy;
 - D. A notary public, provided that the person is not a Director, candidate for Director, or related to a Director.⁷
 - E. The manager may serve as the Ballot Collector but may not serve as the Inspector of Election.
3. The Inspector(s) shall determine to whom the secret ballots shall be returned (“the Ballot Collector”), and shall notify the Board of its decision not later than seventy (70) calendar days before the secret ballots are mailed to all the members.
4. The Inspectors shall also be responsible to implement those tasks set forth in Civil Code §5110, as it may be amended, including but not limited to determining the number of memberships entitled to vote, the authenticity, validity and effect of proxies, receiving ballots, hearing and determining challenges and questions arising out of or in connection with the right to

⁵ Civil Code §5115

⁶ Civil Code §5110

⁷ Civil Code §5110

vote, determining when the polls shall close, counting and tabulating votes, and performing any acts as may be proper to conduct the election with fairness to all members.

5. An Inspector of Election shall perform its duties impartially, in good faith, to the best of his or her ability, and as expeditiously as is practical. The decision or act of a majority of Inspectors shall be effective in all respects as the decision or act of all.
6. Any report made by the Inspector(s) is prima facie evidence of the facts stated in the report.
7. The Board may remove and replace any Inspector of Election prior to the tabulation of ballots if an inspector of election resigns or if the Board reasonably determines that an Inspector is unable to perform his or her duties impartially and in good faith.

C. Proxies⁸

1. Proxies shall not be used.

D. Quorum; Qualification to Vote⁹

1. A quorum of Fifty Percent (50%) of the members or 155 members present in person or by return of a secret ballot shall be required for any vote of the members for all matters, except an assessment increase vote. A quorum of Twenty Five Percent (25%) or 78 members shall be required for an adjourned meeting for all matters, except an assessment increase vote. A quorum of more than Fifty Percent (50%) or 156 members shall be required for assessment votes.
2. Each Unit is entitled to one vote¹⁰.

E. Secret Ballot Procedure; Record Date

1. Voting for the election of and removal of members of the Board of Directors shall be held by secret ballot in accordance with the procedures

⁸ C.C. §5130; Bylaws, Article III, §3.6

⁹ Bylaws, Article IV, §4.5

¹⁰ Bylaws, Article II, §2.3

specified in Civil Code §5115.

2. Ballots and two pre-addressed envelopes with instructions on how to return ballots shall be mailed by first-class mail or delivered by the Inspector of Elections to every member not less than thirty (30) days before the meeting at which the ballots will be counted. Voting rights may not be suspended by the Association.¹¹
3. Ballots must insure the confidentiality of the voters.
 - a. A ballot shall not identify any voter by name or unit number;
 - b. A ballot shall not require nor contain the signature of the voter;
 - c. A completed ballot shall be inserted by the voter into an envelope that is sealed. The sealed envelope shall be inserted into a second envelope that is sealed. The voter shall print and sign his name, and place his unit number that entitles him or her to vote on the upper left corner of the outer sealed envelope. The outer second envelope shall be addressed to the inspector(s) of election assigned to tally the votes.
4. A member may return his or her secret ballot by mail, hand deliver it to the Inspector at the meeting at which the votes will be counted, or complete the ballot at the meeting before the polls close and return it to the Inspector of Election. A member may also provide a Proxy to a proxyholder to vote by secret ballot at the meeting. However, only ballots received before the first ballot is opened by the Inspector(s) shall be counted.
5. Upon request, the Board shall provide a member with a receipt for delivery of his or her sealed ballot.
6. The record date for purposes of voting shall not be less than 30 days prior to the meeting. If the Board doesn't set a record date, it shall be 5 days before the date the ballots are mailed/delivered to the members.¹²

¹¹ Civil Code §5105(g)

¹² Bylaws, Article IV, Section 4.7

F. Campaigning¹³

1. Candidates shall be provided equal access to Association media, newsletters, or internet websites, if any, for purposes that are reasonably related to the election, regardless of whether the candidate is advocating a point of view during a campaign that is not endorsed by the Board.
2. All candidates, and all members advocating any point of view, shall be provided equal access at no cost to any common area meeting space, if any, during a campaign.
3. Association funds may not be used for campaign purposes in connection with any board election. Each candidate must bear its own campaign costs.
4. Candidates shall be liable and shall indemnify and hold the Association, its agents, officers, directors, and employees harmless from all demands, costs, including reasonable attorneys fees and expenses, claims, damages, and causes of action arising out of the Association's publication of the candidate's materials.¹⁴

G. Ballot Tally¹⁵

1. The Ballot Collector shall maintain a sign-in sheet on which it will note receipt of each ballot when it is received by the Ballot Collector. Once a secret ballot is received by the Inspector, it shall be deemed irrevocable.¹⁶
2. Sealed ballots shall be maintained in the custody of or a location designated by the Inspector(s) of Election until delivered to the Inspector at the meeting for the opening and tallying of the vote.
3. The ballots shall be separated from their outer envelopes, and maintained separately by the Inspector until after the votes are tallied and the report of the vote is delivered to the Board.

¹³ Civil Code §5105

¹⁴ Corporations Code §5525

¹⁵ Civil Code §5120

¹⁶ Civil Code §5120(a)

4. No one shall open or otherwise review any ballot before the time at which the ballots are counted and tabulated.
5. After the ballots are tabulated and a report of the vote is delivered to the Board, the Inspector(s) shall deliver the ballots and the outer envelopes to the Association. The Inspector shall maintain the voter list, proxies, candidate register list, ballots, and outer envelopes signed by members (“voting materials”) in a secure place for no less than one (1) year after the date of the election. Voting materials may be transferred to the Association after the expiration of one (1) year from the date the ballots were counted.
6. In the event of a challenge to the election process, or a recount, the Board shall, upon written request, make the ballots available for inspection and review by the members or their authorized representatives. Any recount shall be conducted in a manner that will preserve the confidentiality of the vote. Voter signatures may not be copied by an inspecting member.

H. Ballot Tabulation¹⁷

1. The Inspector(s) of Election shall count and tabulate all votes at a properly noticed open meeting of the members or the Board at which the appropriate quorum must be present. If a quorum is not present at the Meeting, the Meeting may be adjourned by a majority of the members present in person or by secret written ballot to a time not more than thirty (30) days from the original meeting. The total members present at the meeting shall be calculated by totaling the number of Ballots received. A majority of the total persons who provided Ballots must be present at the Meeting to adjourn the Meeting. Members may solicit ballots and proxies prior to the adjourned Meeting date.¹⁸
2. The Inspector(s) shall confirm that no more than one ballot was returned for each Unit. The Inspector may verify the member’s information and signature on the outer envelope prior to the meeting at which the ballots

¹⁷ Civil Code §5120

¹⁸ Bylaws, Article IV, §4.6

are tabulated.

3. Any candidates or other members of the Association may witness the counting and tabulation of votes.
4. Ballots must be returned by at least a quorum of the members (155) for a vote for election of directors to be valid. Once a ballot is received by the Inspector(s), the ballot shall be irrevocable. For assessment votes, more than Fifty Percent or 156 members shall be present in person or by Secret Ballot to establish a quorum.

I. Announcement of Results

1. The Board shall publicize the tabulated results of the election to the members within fifteen (15) days after the election, in a manner reasonably designed to reach each member.¹⁹
2. The Board of Directors shall be deemed to have taken office upon certification by the Board of the election results reported by the Inspector(s).

J. Recall/Removal of Directors by Members

1. A request by 5% or more of the members for a special meeting of the members to recall a Board Member or the entire Board with or without cause shall be given to the Association by e-mail, certified mail, or personal delivery to the Secretary through the property manager.²⁰
2. Within twenty (20) days of receipt of a request for a special meeting to recall a Board Member or the entire Board by at least five percent (5%) of the members, the Association shall select a date for the recall that is not less than thirty five (35) nor more than ninety (90) days from the date the request was received and give notice to members.²¹ The notice of nominating procedures shall be sent with the notice of the Special Meeting of Members. Notice of the date, time and address of where to return

¹⁹ Civil Code §5120(b)

²⁰ Corporations Code §7510

²¹ Corporations Code §7511

ballots and where the ballot counting meeting will be held will be given at this time, along with a statement that the members have a right to verify the Voter List and the Candidate List (once it is sent to the members), and a statement of the members' right to request individual delivery of the notices.

3. Nominations shall close within thirty (30) days after the notice of Special Meeting of Members is sent.
4. Voting materials shall be sent to the members at least thirty (30) days prior to the Special Meeting of Members to count the ballots. The ballot shall include a place to select whether or not to approve the Recall and a list of candidates to be elected as a new Board if the Recall is approved.
5. A majority of a quorum of members may Recall or Remove a Director or the entire Board.²²
6. Except as set forth in this Paragraph, the Secret Ballot procedures in these Rules for elections shall be followed for the Recall process.

II. ELECTION REGARDING ASSESSMENTS, AMENDMENTS TO GOVERNING DOCUMENTS AND GRANTING OF EXCLUSIVE RIGHT TO USE COMMON AREA BY SECRET BALLOT

- A. Secret Ballots** - Elections regarding assessments, amendments to governing documents, removal of directors and granting exclusive right to use common areas shall take place by secret written ballot.
- B. Action without Meeting** – Voting on the issues stated in subsection II A, above, shall be conducted pursuant to the rules stated in Sections I B, C, D, E, G, H and I.

III. THE TIME TABLE FOR ELECTIONS IS ATTACHED HERETO AS EXHIBIT "A" AND INCORPORATED HEREIN BY REFERENCE. If there is any discrepancy between the Time Table and these Rules, the Time Table shall control.

²² Corporations Code §7222

VALENCIA FAIRWAYS HOMEOWNERS' ASSOCIATION, INC.
TIMETABLE FOR ELECTIONS

Task to be Completed	Time by Civil Code	Time Before Election
NOTICE OF ELECTION RESULTS TO BE SENT BY ASSOCIATION	WITHIN 15 DAYS AFTER THE ELECTION	
ELECTION		
BALLOTS, ENVELOPES AND ELECTION RULES ARE TO BE SENT OUT BY INSPECTOR OF ELECTIONS	30 DAYS PRIOR TO ELECTION	At least 30 days prior to the Election
NOTICE OF MEETING AND CANDIDATE LIST TO BE SENT BY ASSOCIATION (Include Candidate List, notice of date, time, and place of where to mail Ballots, notice of date, time, and place of Meeting to count Ballots, Statement of Member's right to verify accuracy of information on the Voter List and Candidate List, Statement of Member's right to request individual delivery of all of the above)	30 DAYS PRIOR TO BALLOTS BEING MAILED OUT	At least 60 days prior to the Election
NOMINATION DEADLINE AND FINALIZE CANDIDATE LIST		At least 70 days prior to the Election
INSPECTOR OF ELECTION SHALL BE SELECTED AND SHALL DETERMINE THE IDENTITY OF THE BALLOT COLLECTOR		At least 70 days prior to the Election
NOTICE OF NOMINATING PROCEDURE TO BE SENT BY ASSOCIATION (This can be done by general notice in a newsletter, website, in billing statements) (Include notice of procedure, nomination deadline, and candidate qualifications)	30 DAYS BEFORE NOMINATION DEADLINE	At least 100 days prior to the Election
ADOPTION OF ELECTION RULES	AT LEAST 90 DAYS BEFORE ELECTION	At least 90 days prior to the Election
PROPOSED NEW ELECTION RULES TO THE MEMBERS FOR A 28 DAY COMMENT PERIOD	AT LEAST 28 DAYS PRIOR TO ADOPTION OF THE ELECTION RULES	At least 118 days prior to the Election

Exhibit "A"