

# **WHISPERING HILLS COMMUNITY ASSOCIATION**

## **ELECTION RULES**

*Adopted April 27, 2006*

The following rules and procedures shall apply in connection with any matter presented to the Members for approval or election:

### **1. General Election Rules**

1.1. The Board of Directors shall determine the date, time and place of the annual meeting of the owners in accordance with the Association's Bylaws.

1.2. The number of directors who are scheduled to be elected and the terms for each shall be determined in accordance with the association's governing documents and stated in the notice of the meeting.

1.3. The notice of the meeting, a secret ballot on which to vote and one set of double envelopes, along with instructions for voting, shall be mailed to all owners at least 30 days prior to the scheduled election date.

1.4. The record date for determining members entitled to receive notice of the meeting and entitled to vote shall be set by the Board of Directors.

1.5. All candidates or members advocating a point of view shall have equal access to all association media, newsletters and websites during a campaign for purposes reasonably related to that election. The Association may limit the space or number of words available for publication in a newsletter, website or other media.

1.6. The Association will not edit or redact the contents of a candidate's or member's communication. The candidate or member offering any statement or commentary, and not the Association, is responsible for the content of any published statement or comments made. The Association may include a disclaimer specifying that the candidate or member and not the Association is solely responsible for the content of the communication.

1.7. All candidates and members will have equal access at no cost to any common area meeting space during a campaign for purposes related to the election. The Association may meet the requirements of this section by hosting a "Meet the Candidates Night", or other such special meeting, so long as every Candidate and/or Member is provided with an equal opportunity to participate in the event.

1.8. Association funds may not be used for campaign purposes in connection with any election of members of the Board of Directors.

1.9. Within 15 days of the election, the Board of Directors shall publicize the results of the election in a communication directed to all members.

## **2. Nomination of Candidates**

2.1. The Association shall mail a Candidate Nomination Form to each Member which will include a deadline for receipt by the Association.

2.2. Candidates whose nomination forms are submitted prior to the deadline for receipt by the Association will have their name printed on the secret ballot and their candidate statements distributed to the membership.

2.3. Nominations may also be made by a Nominating Committee appointed by the Board of Directors.

2.4. Any Member may nominate himself or herself in accordance with these rules.

2.5. Nominations may also be made by Members from the floor at the annual meeting or such other meeting at which members of the Board of Directors are to be elected.

## **3. Voting**

3.1. Following Notice and Hearing in compliance with Corporations Code section 7341 and Article XII of the Bylaws, a Member's right to vote may be suspended or terminated as a penalty for violation of the Association's governing documents.

3.2. Pursuant to the Association's governing documents, every Owner of a Unit is entitled to vote. (CC&Rs, Article II, Section 2.05.) Each Member shall be entitled to one (1) vote for each Unit owned. When more than one (1) person holds an interest in any Unit, all such persons shall be Members, and the vote for such Unit shall be exercised as those Members determine among themselves, but in no event shall more than one vote be cast with respect to a specific Unit. (CC&Rs, Article II, Section 2.05.)

3.3. Members entitled to vote may do so by secret ballot or may designate a proxy holder to vote for them by secret ballot at the election.

3.4. Secret ballots cast by mail shall be irrevocable. As described on the proxy envelope, your signature authorizes the Inspector(s) of Election to serve as your proxyholder for the purposes of establishing a quorum.

3.5. The polls for any vote of the membership shall be open from the date the Secret Ballot is mailed and shall close when the Inspector(s) of Election determine(s) that the ballots shall be counted, unless the Inspector(s) determine(s) another time for the polls to close.

## **4. Inspector(s) of Election**

- 4.1. The Board of Directors shall appoint one (1) or three (3) Inspector(s) of Election to serve at any regular or special meeting of the members where an election will be conducted.
- 4.2. The Inspector(s) may be a member of the Association provided such member is not a member of the Board of Directors or a candidate for the Board Directors or related to a member of the Board of Directors or a candidate for the Board of Directors.
- 4.3. Inspector(s) shall be independent third parties which can include, but is not limited to, a volunteer poll worker with the county of registrar of voters, a licensed CPA or a notary public.
- 4.4. The appointed Inspector(s) of Elections must be an independent third party and may include, but is not limited to, a Member of the Association or any person or entity receiving compensation from the Association.
- 4.5. 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.
- 4.6. The Inspector(s) will determine the number of memberships entitled to vote and the voting power of each in accordance with the Association's Bylaws.
- 4.7. The inspector(s) will determine the authenticity, validity and effect of proxies, if any.
- 4.8. Unless the Inspector(s) designate a different location to receive ballots, the location to receive ballots will be the Association's managing agent's business office address.
- 4.9. The Inspector(s) shall hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.
- 4.10. The Inspector(s) shall count and tabulate all votes at a duly noticed open board or membership meeting.
- 4.11. Anyone who is not an Inspector of Election, or appointed to assist the Inspector(s) of Election, must remain at least five feet away from the counting area. No person may interfere with, harass or otherwise communicate with the Inspector(s) of Election while the count is taking place. Persons not specifically authorized by the Inspector(s) to do so may not touch any secret ballot or other election materials.
- 4.12. The Inspector(s) may cause the removal of any observer who interferes with or disrupts the counting or tabulation process.

4.13. The Inspector(s) shall determine and announce the results of the election and shall report the results of the election promptly to the Board of Directors. The results shall be recorded in the minutes of the next regular session board meeting.

4.14. 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.

4.15. The Inspector(s) shall perform any acts as may be proper to conduct the election with fairness to all Members in accordance with the law and all applicable governing documents and rules of the Association, including these election rules.

4.16. The Board of Directors may remove and/or replace any Inspector of Election prior to the tabulation of votes if an Inspector of Election resigns or if the Board reasonably determines that an Inspector of Election will not be able to perform his or her duties impartially and in good faith.

## **5. Ballots and Tabulation**

5.1. Once a ballot is received by the Association it is deemed irrevocable.

5.2. Ballots shall ensure the confidentiality of the voter, shall not identify the voter by name, address, lot, parcel or unit number and may not require a signature.

5.3. Once completed, the ballot itself shall be inserted into an envelope that is sealed (the ballot envelope). This envelope shall be inserted into a second envelope that is sealed (the proxy envelope). In the upper left hand corner of the proxy envelope, the voter must print and sign his or her name, address, and the lot, parcel or unit number that entitles him or her to vote. The proxy envelope is addressed to the Inspector(s) of Election at the designated address.

5.4. Members may return the sealed envelope containing their secret ballot by mail, hand deliver it to the meeting, or complete the ballot at the meeting. To be counted, all ballots must be in a sealed ballot envelope as described at 5.3, above.

5.5. Only those ballots delivered to the Inspectors of Election prior to the polls closing shall be counted.

5.6. If a Member loses his or her ballot, a new one can be obtained. Since ballots are irrevocable once they are cast, however, if a ballot envelope for the Member's Unit has already been received, no new ballot will be given and/or counted.

5.7. A member who signs or otherwise marks his or her ballot with an identifying mark waives his or her rights to secrecy.

5.8. The sealed ballots shall at all times be in the custody of the Inspector(s) of Election or at a location designated by the Inspector(s).

5.9. No person, including a Member of the Association 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.

5.10. After tabulation of the votes and the certification of the election results by the Inspector(s) of Election, custody of all election materials, including the ballots, will be transferred to the custody of the Association for its corporate records. Thereafter, all ballots will be made available for inspection by any candidate or member during regular business hours at the Association's management office.

Copyright © 2006 Neuland, Nordberg, Andrews & Whitney, APLC. All Rights Reserved. This document may only be used by the client for which it has been prepared. No part(s) of this document may be reproduced, modified, republished, revised, downloaded to or otherwise stored in any information storage and/or retrieval system or transmitted in any form or by any means – electronic, mechanical, photocopying, recording or otherwise – without the written permission of Neuland, Nordberg, Andrews & Whitney, APLC.