

**11838 KIOWA AVENUE
HOMEOWNERS ASSOCIATION, INC.'S ELECTION POLICY
EFFECTIVE APRIL 11, 2022**

The following Election Policy applies to all matters of the Association that require a membership vote for approval and adoption. Such matters include, but may not be limited to, election or removal of members of the Association's Board of Directors, amendments to the Association's governing documents, assessment increases that legally require a membership vote, and granting of exclusive use common area property pursuant to *Civil Code* 4600.

1.0.1 Campaigning.

- (a) All candidates or members advocating a point of view during a campaign, including those not endorsed by the Board, shall be provided equal access to Association media, newsletters, or Internet Web sites (if any) for purposes that are reasonably related to the election. The Association may not edit or redact any content from these communications unless said content, if published, would subject the Association to legal action for republishing same. In addition, the Association may include a statement specifying that the candidate or member, and not the Association, is responsible for that content.
- (b) All candidates, including those who are not incumbents, and all members advocating a point of view, including those not endorsed by the Board, for purposes reasonably related to the election, shall be provided equal access to any common area meeting space, if any exists, during a campaign at no cost.
- (c) Association funds may not be used for "campaign purposes" in connection with any board election. The term "campaign purposes" is defined to include, without limitation, (1) "expressly advocating the election or defeat" of any candidate that is on the ballot; or (2) "including the photograph or prominently featuring the name of a candidate on a communication" from the Association (except the ballot and voting materials and equal access communication sent pursuant to this policy).

1.0.2 Notice of Board of Directors Election Meeting and Nomination of Candidates.

- (a) At least ninety (90) days before a Board of Directors election meeting of the Association, and at least thirty (30) days prior to the deadline to submit nominations for candidates, the Association or its agent shall:
 - (1) Send a Notice of Election Meeting to each member of record. Individual notice shall be delivered pursuant to Civil Code Section

4040 if such notice is requested by a member. This Notice shall state the location, date and time of the election meeting and the identity and address of the Inspector(s) of Election.

- (2) Mail, hand deliver or electronically deliver (with member consent) to each owner a Candidate Nomination Form which, among other things, shall set forth the deadline for submission of the Nomination Form and the procedure for such submission to the Inspector(s) of Election.
- (b) At least thirty (30) days prior to the mailing of ballots, the Association or its agent shall mail, hand deliver or electronically deliver (with member consent) to each owner a list of all candidate's names that will appear on the ballot.
- (c) At least thirty (30) days prior to the election meeting, the Association or its agent shall individually deliver the ballots to the members and either individually deliver a copy of the election rules or notice that the election rules are posted on an internet website which is identified. If posted, the notice shall state in a font size of at least 12-point on the ballot: "The rules governing this election may be found here:
[www.https://iconrealtyservices.appfolio.com/connect/.](https://iconrealtyservices.appfolio.com/connect/)"
- (d) Each member of the Association's Board of Directors and nominees for the Board shall be a unit owner or a qualified representative. Qualified representatives include Trustees of Trusts, Officers or Managers of Corporations or LLCs or general partners of partnerships of LLP's. In addition, pursuant to Civil Code §5105(b)(2), if title to a separate interest parcel 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.
- (e) Only Owners may nominate themselves or another Owner/qualified representative. Only Owners may serve as a director except when the Bylaws or CCRs permit the Declarant to appoint or nominate non-owners. Qualifications shall be as set forth in the Bylaws except as otherwise provided in California law.
- (f) Any candidate nominated by another person will be contacted to confirm that such candidate consents to having his or her name placed in nomination for election to the Board. If confirmation of consent is not obtained, the nominated candidate will not appear on the ballot.
- (g) All candidates who meet the qualifications to serve on the Board and, if appropriate, have confirmed their willingness to run for election to the Board, shall be listed on the secret ballot. Qualifications to run for the

Board shall be the same as those to serve on the Board. The following candidates and directors shall be disqualified from running or serving on the Board:

- (1) An owner with a prior criminal conviction that would prevent the association from obtaining or maintaining the required fidelity bond under California law;
 - (2) An owner whose election would result in joint owners of a separate interest serving on the board at the same time;
 - (3) An owner who is delinquent in payment of regular or special assessments and who has had an opportunity to engage in Internal Dispute Resolution, has not paid amounts in protest and who is not making payments to Association under a payment plan.
- (h) Notwithstanding any provision in the Bylaws, all qualifications for directors shall comply with the provisions of Civil Code Section 5100-5115 as amended from time to time.
- (i) Any candidate who is disqualified has the right to request Internal Dispute resolution (IDR) with the Association to have the grounds for the disqualification reviewed in an effort to resolve the dispute.
- (j) The Candidate Nomination Form must be returned to the Association at the address provided and by the deadline stated on such form. Nominations from the floor of the election meeting for candidates for the Board shall not be permitted. Write in candidates shall not be permitted.
- (k) Procedures for nominations for election to the Board shall comply with Corporation Code Section 7520, Civil Code Sections 5100-5130 as amended from time to time.

1.0.3 **Election Meetings Other Than To Elect Board of Directors.**

- (a) As to election meetings, other than Board of Directors' election meetings, at least thirty (30) days before ballots are distributed for said election meeting, the Association or its agent shall send a Notice of Election Meeting to each member of record. Individual notice shall be delivered pursuant to Civil Code Section 4040 if such notice is requested by member. This Notice shall state the location, date and time of the election meeting and the identity and address of the Inspector(s) of Election.
- (b) At least thirty (30) days prior to the election meeting, the Association or its agent shall individually deliver the ballots to the members and either individually deliver a copy of the election rules or notice that the election

rules are posted on an internet website which is identified. If posted, the notice shall state in a font size of at least 12-point on the ballot: "The rules governing this election may be found here: www.https://iconrealtyservices.appfolio.com/connect/."

1.0.4 **Secret Ballot Procedure; Record Date.**

- (a) Ballots and a pre-addressed envelope 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.
- (b) Ballots must ensure the confidentiality of the voters.
 - (1) A voter may not be identified by name, address, or unit number on the ballot;
 - (2) The ballot may not require the signature of the voter;
 - (3) The ballot itself is inserted into an envelope that is sealed. This 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 unit owned. If there are multiple units owned by the same person there will be multiple ballots, each with its own envelope. The second envelope is addressed to the Inspector(s) of Election, who will be tallying the votes.
- (c) Owners may return their secret ballot by mail, hand deliver it to the meeting or complete the ballot at the meeting; provided only those ballots which are delivered to the Inspector(s) of Election prior to the polls closing shall be counted. A non-Owner who holds a general power of attorney for an Owner or a valid proxy shall be entitled to receive a ballot and cast said ballot.
- (d) A member may request a receipt for delivery. The record date for purposes of voting shall be the date the ballots are mailed to all of the owners.
- (e) In the event California law is amended to permit electronic voting, the procedures allowed in said provisions shall automatically be deemed to be permitted by this Election Policy without the need for further amendment.
- (f) Cumulative voting is permitted by the Association's governing documents.

1.0.5 **Inspector(s) of Election**

(a) The Board shall appoint an independent third party as Inspector(s) of Election prior to the opening of the secret ballots. Independent third parties include, but are not limited to:

- (1) a volunteer poll worker with the County registrar of voters;
- (2) a licensee of the California Board of Accountancy;
- (3) a notary public;
- (4) a member of the Association provided such member is not a member of the Board of Directors, a candidate for the Board of Directors, or a family member of a Board member.

A person who is currently employed or under contract to the Association (except specifically to act as an Inspector(s) of Election) shall not serve as an Inspector(s) of Election.

(b) Prior to secret ballots being mailed to all of the owners, the Board shall determine the Inspector(s) of Election to whom the secret ballots shall be returned.

(c) The Inspector(s) of Election shall also do all of the following:

- (1) determine the number of memberships entitled to vote and the voting power of each;
- (2) determine the authenticity, validity, and effect of proxies or powers of attorney, if any;
- (3) receive ballots;
- (4) hear and determine all challenges and questions in any way arising out of or in connection with the right to vote;
- (5) count and tabulate all votes;
- (6) determine when the polls shall close;
- (7) determine the results of the election;
- (8) perform any acts as may be proper to conduct the election with fairness to all members in accordance with this section and all applicable Rules of Association regarding the conduct of the election that are not in conflict with this section.

(d) An Inspector(s) 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. The decision or act of a majority shall be effective in all respects as the decision or act of all.

(e) Any report made by the Inspector or Inspectors of Election is prima facie evidence of the facts stated in the report.

- (f) 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(s) of Election will not be able to perform his or her duties impartially and in good faith.

1.0.6 **Handling of Ballots.**

- (a) The Inspector(s) of Election shall be designated by the Board of Directors and shall be identified on the Notice of Election Meeting. As secret ballots are returned to the Inspector(s) of Election, the Inspector(s) of Election shall check off on a sign-in sheet that a ballot has been received for such unit. The first secret ballot received for any unit shall be the ballot which is counted. Any subsequent ballots for the same unit which are received shall be deemed invalid and shall be discarded. Ballots received by the Inspector(s) of Election shall be irrevocable.
- (b) The sealed ballots at all times shall be in the custody of the Inspectors of Election or at a location designated by the Inspectors until delivered to the Inspectors at the meeting for the opening of the ballots and the tabulation of the vote.
- (c) 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 to be counted and tabulated.
- (d) After tabulation, election ballots, signed voter envelope, voter list, candidate registration list, and proxies shall be in the custody of the Inspector(s) of Election or stored by the Association as designated by Inspector(s) of Election in a secure place until the expiration of the time period for filing a challenge to the election under Civil Code Section 5145. 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 of their authorized representatives. Any recount shall be conducted in a manner that shall preserve the confidentiality of the vote.

1.0.7 **Meeting at Which Secret Ballots Shall be Tabulated.**

- (a) The Inspector(s) of the Election shall tabulate the ballots for the election of the directors or other matters to which this policy applies at a meeting of the owners, or if no quorum is present, at a special meeting of the Board of Directors duly noticed for the same date, time and place, as the general meeting of the Association called for the purpose of counting ballots. The Board of Directors shall determine the date, time and place of the annual or other general meeting of the owners and the concurrent special meeting of the Board in accordance with the Association's Bylaws.

1.0.8 **Tabulation of Votes; Quorum Requirement.**

- (a) All votes shall be counted and tabulated by the Inspector(s) of Election in public at a properly noticed open meeting of the members or of the Board, at which a quorum of members or a quorum of Board members, as the case may be, must be present.

A quorum of members as well as reduced quorum is provided for in Article VI entitled "Meetings and Voting," Section 6.08 "Quorum," of the Bylaws as follows: "Unless otherwise provided by statute, the Articles of Incorporation, the Declaration or these By-Laws, the presence, in person or by proxy of Members entitled to cast at least fifty-one percent (51%) of the total votes of all Members of the Association shall constitute a quorum for the transaction of business at all meetings of the Members of the Association. If at any meeting of the Association a quorum is not present, a majority of the Members present and entitled to vote, either in person or by proxy, may, unless otherwise provided by law, adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time for which the original meeting was called, but may not transact any other business. At such adjourned meeting the presence of Owners otherwise entitled to vote who own at least twenty-five percent (25%) of the voting power of the Association shall constitute a quorum. If a time and place is not set for the adjourned meeting by a majority of Members present and entitled to vote at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members as provided for in Section 6.03 of these By-Laws."

A quorum of Board members is provided for in Article VIII entitled "Directors Meetings," Section 8.06 "Quorum" of the Bylaws as follows: "At all meetings of the Board of Directors a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall constitute the acts of the Board."

- (b) The Inspector(s) of Election shall confirm that no more than one ballot was returned for each unit.
- (c) Any candidate or other member of the Association may witness the counting and tabulation of the votes.
- (d) In order for the vote for the election of directors to be valid, ballots must be returned by at least a quorum of the owners. If quorum is not obtained, no election will be conducted unless the meeting is adjourned and quorum is met at the rescheduled meeting.

1.0.9 **Announcement of Results.**

- (a) The results of the election (vote count) shall be promptly reported to the Board of Directors and shall be recorded in the minutes of the next meeting of the Board of Directors and shall be available for review by members of the Association.
- (b) Upon certification of the election results by the Inspector(s) of Election, the newly elected Board members shall be deemed to have taken office.
- (c) Within fifteen (15) days of the election, the Board shall publicize the results of the election in a communication directed to all members.

1.10 **Board Elections By Acclamation**

When the number of qualified candidates is not more than the number of vacancies to be elected at the time of the deadline for submitting nominations, as determined by the inspector or inspectors of the elections, the Association may, but is not required to, consider the qualified candidates elected by acclamation if all the following conditions have been met:

- (a) The Association has held a regular election for the directors in the last three years. The three-year time period shall be calculated from the date ballots were due in the last full election to the start of voting for the proposed election.
- (b) The Association provided individual notice of the election and the procedure for nominating candidates as follows:
 - (1) Initial notice at least 90 days before the deadline for submitting nominations. The initial notice shall include all of the following:
 - (A) The number of board positions that will be filled at the election.
 - (B) The deadline for submitting nominations.
 - (C) The manner in which nominations can be submitted.
 - (D) A statement informing members that if, at the close of the time period for making nominations, there are the same number or fewer qualified candidates as there are board positions to be filled, then the board of directors may, after voting to do so, seat the qualified candidates by acclamation without balloting.
 - (2) A reminder notice between 7 and 30 days before the deadline for submitting nominations. The reminder notice shall include all of the following:

- (A) The number of board positions that will be filled at the election.
- (B) The deadline for submitting nominations.
- (C) The manner in which nominations can be submitted.
- (D) A list of the names of all of the qualified candidates to fill the board positions as of the date of the reminder notice.
- (E) A statement reminding members that if, at the close of the time period for making nominations, there are the same number or fewer qualified candidates as there are board positions to be filled, then the board of directors may, after voting to do so, seat the qualified candidates by acclamation without balloting. This statement is not required if, at the time the reminder notice will be delivered, the number of qualified candidates already exceeds the number of board positions to be filled.

(c) (1) The Association provides, within seven business days of receiving a nomination, a written or electronic communication acknowledging the nomination to the member who submitted the nomination.

(2) The Association provides, within seven business days of receiving a nomination, a written or electronic communication to the nominee, indicating either of the following:

- (A) The nominee is a qualified candidate for the board of directors.
- (B) The nominee is not a qualified candidate for the board of directors, the basis for the disqualification, and the procedure, which shall comply with Article 2 (commencing with Section 5900) of Chapter 10, by which the nominee may appeal the disqualification.

(3) The Association may combine the written or electronic communication described in paragraphs (1) and (2) into a single written or electronic communication if the nominee and the nominator are the same person.

(d) (1) The Association permits all candidates to run if nominated, except for nominees disqualified for running as allowed or required pursuant to subdivisions (b) to (e), inclusive, of Section 5105 of the Civil Code.

(2) Notwithstanding paragraph (1), an association may disqualify a nominee if the person has served the maximum number of terms or sequential terms allowed by the association.

(3) If an association disqualifies a nominee pursuant to this subdivision, an association in its election rules shall also require a director to comply with the same requirements.

(e) The Association Board votes to consider the qualified candidates elected by acclamation at a meeting pursuant to Article 2 (commencing with Civil Code Section 4900) for which the agenda item reflects the name of each qualified candidate that will be seated by acclamation if the item is approved.