

February 4, 2020
Oasis at Palmdale Homeowners

SB 323: Election Rules Update

This year, the California Legislature passed Senate Bill 323, which brings mandatory comprehensive community association election reform laws that impose strict new standards for elections and board qualifications. These new laws make it essential that associations adopt new elections rules to comply with the changes that take effect January 1, 2020.

Failure to adopt adequate procedures, or failure to comply with the procedures once adopted, could subject the Association to civil penalties.

In order to update the Association's Bylaws and Election Rules, the attached "New Election Rules" will be officially adopted at our next Board of Directors Meeting.

As these new rules are mandated by the State, there is no need for any homeowner response.

The Mandated New Rules will be officially adopted by the Board at our next meeting.

Sincerely,

David Bucks

Property Manager, Oasis at Palmdale

OASIS AT PALMDALE HOMEOWNERS ASSOCIATION

VOTING AND ELECTION RULES

ADOPTED MARCH 10, 2020

Article 1

Memberships, Meetings and Voting Rights

A. There are two types of Membership meetings. Regular Annual meetings are held once every year to elect directors and to conduct such other business as properly comes up at the meeting. Special meetings can be called by the Board, by the Chairman of the Board, as well as by petition signed by not less than five percent of the membership, for any proper purpose.

B. All Members of the Association may vote at all Membership meetings. Only persons who are record owners of a fee, undivided fee interest, or a contract purchaser of record in any Unit within the Association may be Members. In the event that an entity (corporation, trust, etc.) is the record owner, one person shall be designated by the entity to act on behalf of the entity and shall be deemed the "Member" for purposes of these Rules.

C. All Membership meetings shall be conducted in accordance with a recognized system of parliamentary procedure as the Members may adopt. In the event of a dispute regarding the system of parliamentary procedure to be used, Robert's Rules of Order shall be used.

D. For purposes of electing Directors, each membership will have one vote for each vacancy on the Board. For all other matters submitted to the Members for a vote, each Membership shall have one vote for each matter. If there is more than one owner of a Unit, each of the owners is a "member", but there is still only one "membership" for the Unit. 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 for purposes of this article.

E. All elections of Directors shall be done by secret written ballot. Voting will be allowed to be done by Secret Ballot as described below.

F. For election of Directors in which more than two members are to be elected, cumulative voting shall be used (Bylaw Section 3.07.10). Cumulative voting means that a member may cast all of their votes for one Candidate or divide the votes among the Candidates as they desire. Cumulative voting shall not be permitted for any matter other than election of Directors, regardless of the number of matters to be voted on. No fractional votes are permitted or allowed for any purpose.

Article 2

Board of Directors

A. The Board of Directors shall consist of five (5) Directors. A Director must be a member of the Association (Bylaws 5.02(b)). At each annual meeting the Members shall elect Directors for a term of one year.

B. No more than one person from each Unit shall be allowed to serve or be a candidate for election to the Board of Directors. A candidate for the Board of Directors shall not be eligible if they have a past criminal conviction that would prevent the association from purchasing fidelity bond coverage or if the person's election would terminate the association's existing coverage. A candidate must own a Unit for at least one calendar year prior to being eligible for the Board.

C. Board Nominees and Directors must be current in the payment of regular and special assessments. The Association may not disqualify a nominee or Director for nonpayment of fines, fines renamed as assessments, collection charges, late charges, or costs levied by a third party.

An association shall not disqualify a nominee for failure to be current in payment of regular and special assessments if any of the following circumstances are true:

1. The nominee has paid the regular assessment or special assessment under protest.
2. The nominee has entered into a payment plan.
3. The nominee has not been provided the opportunity to engage in internal dispute resolution. All members have dispute resolution rights by statute. A separate notice of that right is not required and engagement or completion of the internal dispute resolution is not a requirement to be disqualified for failure to be current.

D. In the event the entire Board of Directors is recalled at any point and an election is held for the replacement directors, the replacement directors shall serve out the remaining terms of the Directors that were replaced.

E. Directors must be elected solely by secret written ballot as provided in these Rules and the Civil Code as may be amended from time to time.

Article 3

Annual Meeting and Notice, Record Date

A. The Association's Annual Meeting shall be held as provided in the Bylaws. The Association shall send a Notice of Annual Meeting (Notice) to all Members not less than thirty (30) nor more than ninety (90) days before the date of the meeting and shall include the date, time and place of the meeting.

B. In the case of a Special Meeting, the Notice shall also include a general statement of the nature of the business which is expected to be conducted at the meeting. No business other than that which was described in the Notice may be conducted at any Special Meeting.

C. The record date for purposes of voting shall be the date the ballots are mailed to the members.

Article 4
Association-Maintained Lists

The Association shall 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 voter's separate interest, 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 voter's separate interest or if only the parcel number is used. Members have the right to ask to verify the accuracy of their individual information at least 40 days before the ballots are distributed. The member shall report any errors or omissions to the Inspector who shall make the corrections within two business days. The candidate registration list shall be the names that properly appear on the secret ballots.

Article 5
Nominations

- A. At least one hundred and five (105) days before the date of the meeting at which the ballots for the election of directors are to be counted, the Association shall mail to each owner a Candidate Nomination Form with the process and procedure for submitting a nomination as well as a deadline for submitting a nomination which shall be not less than 30 days after mailing of the Nomination Form.
- B. Owners may nominate themselves or another person; provided, however, that all candidates must meet the qualifications set forth in Article 2 above. Any candidate nominated by another person must confirm that such candidate consents to having his or her name placed in nomination for election to the Board. If the candidate's consent can not reasonably be obtained prior to the distribution of ballots, that member's name shall not appear on the ballot.
- C. The Candidate Nomination Form must be returned and received by the Association by the date and time listed on the form, which shall be prior to the printing and distribution of the ballots. Any nominations received thereafter might not be listed on the nomination form.
- D. Nomination from the floor shall be allowed only if the number of candidates at the close of the nomination period set forth above do not exceed the number of open director positions. Nominations from the floor will be allowed only if the candidate is physically present at the meeting and consents to the nomination. As the ballots will already have been printed by the time any nominations are made from the floor, any party nominated from the floor, will not have their name pre-printed on the ballots and write-in spaces will be provided on all ballots.

Article 6
Candidate Communications

- A. If any Candidate or Member advocating a point of view is provided access to Association media (such a newsletters, Internet or website, etc.) during a campaign for the Board of Directors for purposes reasonably related to that election, equal access shall be provided to all Candidates and other Members who desire to state a point of view for purposes reasonably related to that election.

The Board shall not edit or redact these statements but the Board may add a disclaimer to such communication to the effect that any comments are those of the Candidate and not necessarily those of the Association or the Board, and that the Association is not responsible for them.

B. Access to common area meeting space will be made available to all Candidates and Members advocating a point of view, for purposes reasonably related to the election, at no charge, at reasonable times. If there is a candidate forum, or meet the candidate function, all Candidates shall be permitted to participate.

C. No campaign posters or other election materials may be placed or posted anywhere on the Common Area of the Association or anywhere within the development that would be in violation of the Association's governing documents, including the rules and regulations.

Article 7

Use of Association Funds for Campaign Purposes

A. Association funds may not be used for campaign purposes in connection with any Association election except to the extent necessary to comply with the duties of the Association imposed by law. Campaign purposes include, but are not limited to:

1. Expressly advocating the election or defeat of any Candidate;
2. Featuring the photograph of any one or more Candidates while excluding others;
3. Prominently featuring the name of any Candidate;

on a communication from the Association or its Board of Directors sent or distributed at Association expense (other than the Secret Ballot material) within thirty (30) days of an election.

B. Campaign purposes do not include communications for which equal access is given as referenced above.

Article 8

Secret Ballots

A. For purposes of these Rules, the capitalized words "Secret Ballot" means a form of written ballot described in the California Civil Code which is intended to be cast by mail or delivery without the necessity of the voting Member being personally present at a Meeting. The Association shall utilize a Secret Ballot process, as described below, for any or all of the following matters:

1. An increase in regular assessment that is more than 20 percent greater than the regular assessment for the association's preceding fiscal year or a special assessments which in the aggregate exceeds 5 percent of the budgeted gross expenses of the association for that fiscal year;
2. Elections for the Association's Board of Directors;
3. Amendments to the Governing Documents;
4. Grant of exclusive-use Common Area pursuant to Civil Code Section 4600;
5. Any other purpose as required in the Bylaws or the Civil Code.

Article 9
Inspector(s) of Election

A. For any meeting in which Secret Ballots will be cast , the Board shall appoint an Inspector of Election at least seventy (70) days prior to the election. There may be either one (1) or three (3) Inspectors of Election. (The singular word "Inspector" shall refer to both one (1) Inspector and three (3) Inspectors in these Rules). The Board may appoint backup inspectors in the event that one or more of the appointed inspectors are unable or unwilling to perform their duties.

B. The Board may select a non-member of the Association as Inspector, provided, however, that such non-member is an independent third party, including, but 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 also be member, but may not be a director or a candidate for director or be related to a director or to a candidate for director. An independent third party may not be 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.

C. The Board may in its discretion, pay compensation to a non-member Inspector.

D. The Board shall have the right to replace any Inspector(s) upon that Inspector(s) resignation, unavailability, or for any other reason the Board deems fit.

E. The Board may, but shall not be required to, submit the selection of the Inspectors to a vote of the Association Members in attendance at any membership Meeting. Notwithstanding the foregoing, if the Board fails to appoint Inspectors(s), then upon motion of the Members, the Board shall allow the Members to elect disinterested Inspectors.

F. The Board shall require the Inspector to deliver, or cause to be delivered, at least 30 days before an election, the ballots and a copy of the election operating rules. Delivery of the election operating rules may be accomplished by individual delivery or by posting the election rules to a website and including the website address on the ballot together with the phrase, in at least 12-point font: "The rules governing this election may be found here:"

Article 10
Pre-Ballot Notice

Not less than thirty (30) days prior to the distribution of any ballots, the Association shall mail to Members, by first-class mail, a general notice of:

1. The date and time by which, and the physical address where, ballots are to be returned by mail or handed to the inspector or inspectors of elections.
2. The date, time, and location of the meeting at which ballots will be counted.
3. If an election for Board members, the list of all candidates' names.

Article 11
Secret Ballot Procedures

- A. The Inspectors or their designee will maintain custody of the sealed Secret Ballots until the time for counting of the Secret Ballots by the Inspectors.
- B. Not less than thirty (30) days prior to any Membership Meeting in which voting by Secret Ballot will occur, the Association shall mail to Members, by first-class mail, the Secret Ballots, along with two envelopes, pre-addressed to the Inspectors.
- C. In any election of Directors, the Secret Ballot shall contain the names of all Candidates who have been nominated as of the time of mailing.
- D. The Secret Ballot shall NOT require a signature or any other identification, nor identify the Member by name, address, Unit number. If any Member signs the Secret Ballot or otherwise identifies themselves, it shall be accepted by the Inspectors as a valid Secret Ballot.
- E. The Secret Ballot must be inserted into a blank envelope (or one designated as ballot envelope) and the envelope sealed. This shall be defined as the Ballot Envelope. If the Member signs the Ballot Envelope, or otherwise identifies themselves thereon, it shall still be accepted by the Inspectors as valid and the voter shall be deemed to have waived their right to secrecy of their ballot.
- F. The sealed Ballot Envelope must be inserted into a second envelope (Envelope #2), pre-addressed to the designated Inspector location, which should then be sealed. In upper left-hand corner of Envelope #2, the Member's name, address, and the Unit/unit number that entitles him/her to vote shall be listed and the member should sign their name in the designated space. If the Member does not complete Envelope #2 in accordance with this State statutory requirement, the Secret Ballot will NOT be accepted nor counted towards the Election, or otherwise.
- G. Any owners who own more than one Unit must submit separate envelopes for each Unit owned.
- H. Secret Ballots may be mailed or delivered by hand to the location designated by the Inspector. The Member may request a receipt for hand delivery. Any Member desiring a receipt for mail delivery shall send the Secret Ballot by certified mail, return receipt requested, to the location selected by the Inspector. The signed return receipt shall act as the receipt of ballot.
- I. Only Secret Ballots prepared by the Association will be accepted by the Inspector. In the event an owner loses or misplaces their secret ballot, they may obtain a replacement ballot by contacting the Association's management company who shall act as the Inspector's designee for this purpose. Should multiple votes be received from a member for the same election, only the first vote shall count. If the Inspector is unable to determine which vote is the first vote, then no vote of that member shall count except for quorum purposes.

Article 12
Duties of Inspector(s) of Election

- A. The Inspector shall do all of the following, consistent with the governing documents:
1. Determine the number of Memberships entitled to vote and the voting power of each;
 2. Determine the authenticity, validity and effect of proxies, if any;
 3. Determine when the polls are to close;
 4. Hear and determine all challenges and questions arising out of or in connection with Members' right to vote;
 5. Receive and count the Secret Ballots;
 6. Determine the results of the election by counting the Secret Ballots; and
 7. Perform any acts as may be proper to conduct the election in good faith, with fairness and impartiality to all Members, in accordance with these Rules, Civil Code, Corporations Code Section 7614, and any successor statutes.
- B. The Inspectors may appoint additional persons to tabulate the Secret Ballots subject to the Inspectors's supervision and count, unless otherwise prohibited by statute.
- C. If there are three (3) inspectors, the decision or act of majority shall be effective in all respects as the decision or act of all.
- D. Any report made by the Inspectors is prima facie evidence of the facts stated in the report.
- E. Inspectors must perform their duties in good faith, to the best of the Inspector's ability, and as expeditiously as practical.

Article 13
Proxies and Powers of Attorney

- A. Proxies will be accepted pursuant to the Bylaws if those Proxies are determined to be valid by the Inspector and meet the requirements of these rules. The Association shall not be obligated to prepare and mail proxies to the owners.
- B. Any instruction given in a Proxy that directs the manner in which the Proxy Holder is to cast the vote must be set forth on a separate page of the Proxy so that can be detached and given to the Proxy Holder to facilitate the casting of votes as directed in the Proxy.
- C. In any election where, under these Rules, the Member would utilize a secret written ballot, the Proxy Holder shall also cast the Members's vote by secret written ballot.
- D. Every Proxy Holder is bound to cast votes on behalf of the Proxy Giver as directed in the Proxy, if any such direction has been indicated. Neither the Association nor the Inspector will be responsible for ensuring that the Proxy Holder votes the Proxy in accordance with the Member's direction. Anyone issuing a proxy must be a member.

E. Any person who has been provided a Power of Attorney by a member shall be allowed to receive a ballot on behalf of that member and the vote shall be tabulated and counted in a timely manner. There shall be no more than one person with Power of Attorney to vote on behalf of a membership.

Article 14
Secret Ballots Are Not Revocable

A. Once a Member mails or delivers his/her Secret Ballot to the location selected by the Inspector, that Secret Ballot cannot be changed or revoked.

B. If more than one Secret Ballot is received for any Unit, the first Secret Ballot received will be the one counted. If it cannot be determined which Secret Ballot was the earliest received, then the earliest postmarked Ballot will be counted. In the event that it is not reasonably possible to determine which Secret Ballot was received first or mailed first, then no Secret Ballot will be counted for that Membership except for the purpose of establishing a quorum.

Article 15
Registration of Secret Ballots at the Meeting

A. The Inspector will register all Secret Ballots which have been received by noting their receipt on a current Membership roster as provided by the Association.

B. The Inspector shall verify that all envelopes are properly sealed and that the outer envelopes contain all required information and signatures in the upper left-hand corner.

C. If a Member brings Secret Ballots for other Members to any Membership meeting the envelope(s) must also be properly signed, sealed, and delivered as required above. The Inspector (or their designee) will register those Ballots along with all others. The Inspector will make all necessary determinations regarding the validity of sealed Secret Ballot envelopes.

D. The Inspector will review the information provided on the upper left-hand corner of Envelope #2. The Inspector will require, at a minimum, the following:

1. That the printed name of the Member is legible or determinable, and matches the name of at least one of the record owners of the property as shown on the Association's Membership list;
2. That the Member's signature is on Envelope #2; and
3. The property information shown on Envelope #2 corresponds to the Member's address on the Association's Membership list or address of the property within the development.

E. If, in the sole discretion of the Inspector, the requirements above are not met, the Secret Ballot will not be registered, and will not be valid for any purpose, including establishing quorum.

Article 16
Observation and Custody of Secret Ballots

A. No person, including any Member of the Association or any employee or Association manager may open or otherwise review or register any Secret Ballot prior to the time and place at which the Secret Ballots are counted and tabulated.

B. The sealed Secret Ballots will at all times be in the custody of the Inspector, or the Inspector's designee for a period of one year after the tabulation of the Secret Ballots, at which time custody will be transferred to the Association. The Association shall have the right, but not the obligation, to dispose of the ballots at any time thereafter.

Article 17
Registration of Members in Person

A. A Member who chooses to vote in person at any Membership meeting must sign in at the registration table area.

B. If a Member has not previously voted their Secret Ballot, the Inspector will give the Member a secret paper ballot to mark and cast at the meeting and the Secret Ballot will then be placed into a Ballot Box after being marked by the member.

Article 18
Registration of Proxies

If a member brings Proxies to any Membership meeting, the Inspector will review and make all necessary determinations regarding those Proxies, including their validity, provided, however, that the Inspector will not review any provision of a Proxy that provides direction as to how the Secret Ballot shall be voted. If the Proxy direction cannot be separated from the Proxy, the Inspector shall determine whether to reject the Proxy. However, no Proxy in and of itself may be counted as a ballot or vote and all Proxies must be voted by a secret paper ballot cast at the meeting.

Article 19
Determination of Quorum

A. The Inspector will determine the number of members necessary to constitute a quorum, whether a quorum has been obtained based upon the number of Members present in person at the meeting, or by Proxy, and those voting by Secret Ballot. Upon determination that a quorum has been obtained the Meeting may proceed. A quorum shall be established by the presence of more than 50% of the total eligible votes.

B. If a quorum is not reached, the Chair of the meeting shall entertain a motion to adjourn (continue) the meeting to a later date to allow for a reduced quorum of 25% of the total voting power. That date shall be no less than five (5) nor more than thirty (30) days from the original meeting. If a motion is made to adjourn (continue) to the reduced quorum meeting, then a majority of the members physically present must approve the motion for it to be valid. The Inspector has the

authority to extend the closing of the polls accordingly. In the event the Inspector does not make a decision on that issue, then the polls shall remain open until the adjourned meeting.

C. If any meeting is adjourned due to lack of quorum, then any Secret Ballots which are cast in person and put directly into the Ballot Box will not be valid for the adjourned meeting. Secret Ballots which are mailed or delivered to the Inspector (or their designee) in properly completed, and still-sealed Envelopes #1 and #2 will be valid for adjourned meetings.

Article 20 Counting and Tabulation

A. Once a quorum has been met and the polls have been closed by the Inspector, the Inspector or designee, if applicable, shall open the sealed envelopes and begin tabulation of the Secret Ballots.

B. Any Member may view the process of counting and tabulation of ballots. The tabulation process may be moved to another room or area so as to avoid disruption of the Meeting, and to avoid distraction, but such location shall nonetheless be open to any Member who desires to observe the counting and tabulation process.

C. Any Member may witness the counting and tabulation from a distance of no less than five (5) feet from any Inspector or their designee if applicable. No Member including any Candidate may disrupt or disturb the Inspector and/or their designee during the inspection, registration, counting or tabulation process. Inspectors may cause the removal of any person who interferes with the counting and tabulation process. Any person who interferes with the tabulation process may be subject to enforcement action and/or monetary penalties up to \$500.

D. The Inspector will provide the members of the Board with a final tabulation of the ballots.

E. Neither the Inspector nor tabulators shall provide any interim counts or tabulations, but may provide to the Board estimates of the time necessary to complete the tabulation process.

F. All Secret Ballots must be legible and clearly marked. If any ballot is marked to cast more votes than the maximum number of votes allowed for that election, no votes will be counted, and the ballot will be used for quorum purposes only.

G. The Inspector may request that the meeting be recessed to allow the Inspector to complete the counting and tabulation of the ballots. Ordinarily such a recess shall only be for such a period as necessary to complete the tabulation process. If any recess will necessitate reconvening on a different date, notice of the recessed meeting will be given to all Members at the meeting where the counting and tabulation occurs, and will identify the location, date and times when the counting and tabulation will be resumed. The Inspector will continue to maintain custody of all ballots until the counting and tabulation is complete.

H. The Inspector will certify the results of the tally and provide it to the Board in writing.

Article 21
Election Results

A. Results of the election shall be promptly reported to the Board of Directors and the Chairman of the Board shall promptly announce the results to the Members present at the Meeting. The announcement of results shall identify the Candidates and the number of votes received by each. Subject to any limitations and qualification contained in these Rules, those Candidates who have received the greatest number of votes shall be elected to fill vacancies on the Board, up to the total number of vacancies sought to be filled. The final results of the election shall be noted in the minutes of the Meeting at which the election took place and shall be recorded in the minutes of the next meeting of the Board.

B. Results shall be available for review by all Members after the certification by the Inspector. Within fifteen (15) days of the election, the Board shall publicize the result of the election in a communication directed to all the Members.

C. In the event of a tie vote among any number of the Candidates, the tie shall be broken by lot using any method upon which the tied Candidates may agree. In the event that the Candidates are unable to agree upon a method of breaking the tie, and if the tie is between two candidates only, then the Inspector shall flip a coin with "heads" representing the candidate whose name comes first in terms of alphabetical order. The winner of the coin-toss shall be deemed the winner of the election. In the event there are two or more candidates involved in a tie, a standard deck of cards shall be drawn and each candidate shall pick a card. The candidate holding the higher card shall be deemed the candidate with more votes.

Article 22
Election Recount

A recount may be requested by any member. A request for recount shall be in writing and delivered to the Inspector within seven (7) days of the tabulation of results and shall specify the good cause reason(s) for the request. A recount may be denied or granted in the sole discretion of the Inspector, reasonably exercised, upon such terms and conditions (including assumption of costs by the requesting party) as the Inspector may reasonably impose. Any recount shall be conducted by the Inspector of Elections at an open meeting within fourteen (14) days of receipt of the recount request and conducted in a manner that shall preserve the confidentiality of the vote.

Article 23
Election Challenge

In the event of an election challenge and upon receipt of a written request from a Member delivered to the Inspector, the Association will make the ballots and Secret Ballots available for inspection and review by Association Members or their authorized representatives. In order to protect the security of the Secret Ballots, one or more Association representatives must be present during such review. Signed voter envelopes may not be copied. Any election challenge must be brought within one year of the election.

Article 24
Consultation With Association Legal Counsel

The Inspector has the authority to confer with Association legal counsel in advance of, or at the meeting where ballots are to be counted. Legal counsel represents the Association and does not represent Members, Inspector, Board Members, management or any other person. By the adoption of these Rules, Association legal counsel has been authorized by the Board of Directors to provide advice, as determined necessary or prudent by legal counsel, for the limited purpose of informing and advising the Inspector regarding issues related to the Inspector performing its duties for the Association, and the Association waives the attorney-client confidential communication privilege for that limited purpose.