

ELECTION RULES – LA GRANADA HOA

1. Nomination Procedures

Placing Names on the Ballot. All nominees, provided they meet the qualifications to serve on the board and submitted their names prior to the close of nominations, must be placed on the ballot mailed to the membership, i.e., written ballots must specify a choice between approval and disapproval of each matter (or candidate) known at the time the ballot is distributed. (Corp. Code §7514(a).) It does not require approval by a nominating committee.

Excluding Candidates. Persons who are not owners of a condominium in the project are not allowed to hold board positions.

Close of Nominations. Nominations must be received no later than **90 days** prior to the annual meeting date.

Internal Dispute Resolution (IDR) notice: Give ten days' individual notice to any non-qualifying candidate that they are not qualified to serve on the board, stating the reason and offering an opportunity to participation in IDR on a business day of their choosing between 10 and 15 calendar days after the notice.

Review for Accuracy. At least **30 days** before the ballots are distributed, the association must prepare a list of the candidates and make it available to the candidates so they can verify the accuracy of their information on the list. The inspector of elections must then change and correct lists within **two (2) business days** of any error or omission being reported

Floor nominations are not allowed.

Write in candidates are not allowed.

2. Director Candidate Qualifications

Mandatory Qualification. Associations are required to disqualify nominees as candidates for election as delegates and board members who are not members of the association at the time of the nomination.

3. A method of selecting independent third parties as inspectors of election.

The board of directors shall appoint 1 inspector of elections no later than **90 days** prior to the annual meeting.

4. Rules for access to association media and meeting space during campaigns.

Association Media. If any candidate or member advocating a point of view is provided access to association media (such as newsletters and internet websites) during a

ballot. The second envelope is addressed to the Inspector of Elections (See sample envelopes.)

6. Procedures for uncontested elections

Ballots Are Not Required. Dispensing with balloting in uncontested elections is not prohibited by California law. The law does not require idle acts nor does it favor form over substance. (Civ. Code §3532; Civ. Code §3528; Letitia V. v. Superior Court (2000) 81 Cal.App.4th 1009, 1016.) Civil Code §5100(a) requires balloting only if an election requires a vote. If the election is uncontested, there is no need for a vote. No balloting is necessary in uncontested elections since the candidates are elected by operation of the association's governing documents. Robert's Rules of Order provides for uncontested elections in meetings:

If only one person is nominated and the bylaws do not require that a ballot vote be taken, the chair, after ensuring that, in fact, no members present wish to make further nominations, simply declares that the nominee is elected, thus effecting the election by unanimous consent or "acclamation. (Robert's Rules, 11th ed., p. 443.)

7. Recall election procedures

a. Who may be recalled.

Directors. With or without cause, the membership may recall the entire board or individual directors. (Corp. Code §7222(a).) This applies to both membership elected and board appointed directors.

Designated Directors. Designated directors cannot be recalled from the board without the approval of the designator. (Corp. Code §7222(f).) A designated director is not one appointed by the board to fill an empty seat. A "designated director" is one designated in the articles or bylaws. (Corp. Code §5220(d).) Such directors serve until their term expires as provided for in the articles or bylaws or they resign, die, or become incompetent.

Court Appointed Directors. Court appointed directors (Corp. Code §5220(e)) cannot be removed without court approval.

Officers. The membership cannot recall officers, such as the president, secretary, or treasurer since officers are elected by the board not the membership. Officers serve at the pleasure of the board and may be removed at-will by the board.

Managers. The membership cannot remove or "fire" a manager, only the board can. Nor can they file a petition with the board to remove a manager.

b. Requirements for recall petitions.

Petition Percentage. Members may request a special meeting of the membership for

calculating the number of votes needed to block removal have been developed by different authors.

e. Notice requirements.

Setting the Date. The board on its own authority without the need for a petition from the membership can set a date for a special meeting to recall a fellow director. Or, it can set a date pursuant to a recall petition submitted by the membership. In either scenario, the date of the special meeting is set by the board and may not be less than 35 nor more than 90 days from receipt of the request. (Corp. Code §7511(c).)

For stock cooperatives the meeting date must be not less than 35 nor more than 60 days from receipt of the petition. (Corp. Code §601(c).)

Giving Notice to the Membership. The board has 20 days from receipt of the petition to set the date and give notice of the meeting date selected by the board. If the board does not meet this deadline, the persons calling the meeting may set the date and give notice. (Corp. Code §7511(c).) If the board fails to give notice, the petitioners may give notice which is not less than 10 nor more than 90 days before the date of the meeting, provided the notice is by first-class, registered, or certified mail. (Corp. Code §7511(a).)

NOTE: The 10-day minimum notice requirement has been superseded by the requirement to send out ballots 30 days in advance of the meeting. (Civ. Code §5115.)

Notice of Purpose. Notice of the meeting must specify the purpose of the meeting. (Civ. Code §5000.) Business at the meeting is limited to noticed items only; no other business may be transacted. (Corp. Code §7511(a).)

Proxy Requirements. Anything to the contrary notwithstanding, any proxy for the removal of a director is not valid unless it sets forth the general nature of the matter to be voted on. (Corp. Code §7613(g).) In addition, any proxy distributed to 10 or more members of a corporation with 100 or more members must specify a choice between approval and disapproval of the removal of the director. (Corp. Code §7514(a).)

Election of New Directors. If the recall is successful, a separate ballot is then sent to the membership for the election of replacement directors. The term in office for new directors will be same as the directors they replace.

f. Distribution of ballots and conduct of the meeting.

Association's Duty. Notice of a membership meeting and ballots (including ballots to elect directors, to amend governing documents, to veto rule changes, to recall the board, etc.) are prepared and distributed to by the association, not by individual owners or petitioners.

Ballots and two preaddressed envelopes with instructions on how to return ballots shall be mailed by first-class mail or delivered by

- grants of exclusive use common areas

9. Amending Election Rules.

Election rules can be amended but associations must follow the rule amendment process required by the Davis-Stirling Act. Election rules cannot be amended less than 90 days prior to an election. (Civ. Code §5105(h).) With the separate mandatory 28-day notice period for membership review of proposed rule changes (Civ. Code §4360(a)), the waiting period for updating election rules is extended to 118 days (4 months) since the change cannot be approved by the board until the end of the 28 days. Unfortunately, the statute does not define the starting point for an election, which has created some disagreement regarding the 90-day period. Boards should consult legal counsel on this issue.

10. Election Timeline.

Boards must pay attention to the extended election timeline when preparing their annual meeting elections. The election timeline will be established using the tool on the Davis Sterling website no later than 6 months prior to the election date.

ELECTION TIMELINE CALCULATOR

TYPE OF ELECTION. Is this timeline for a director election or another type of election? (For recall elections, seek the advice of legal counsel.)

"Director Elections (excluding Recall Elections)"

ELECTION RULES. Have you adopted 2020 compliant election rules? (Election rules cannot be amended less than 90 days prior to an election.)

Yes

VOTING DEADLINE. Select the ballot-counting date by clicking on the field below, navigating through the calendar, and clicking on your desired date. You cannot select dates that have been grayed-out since they are too early to complete all tasks in the timeline. NOTE: The default date you see in the field below is the earliest possible date for your meeting under this timeline if were to start the election today.

03/27/2021

NAME OF ASSOCIATION. This will appear when you print the timeline.

Press Here to Generate Timeline

01/27/2021

◀ **Notice of Nomination Procedures and Deadline Mailing Date**

Last day to mail Notice of Nomination Procedures and Deadline by general notice or, preferably, individual notice. Include nomination procedures (including how to submit nominations per the election rules), nomination deadline, and candidate and director qualifications.

Pre-Ballot Notice Date ▶

03/19/2021

Last day to send pre-ballot notice by general notice, including (1) date, time and physical address to mail or hand-deliver ballots to inspector(s); (2) date, time and location of ballot-counting meeting; and (3) the voter list correction deadline. While posting is permitted, members who requested individual notice are entitled to mailing and mailing to all members is recommended. This date also begins the period during which members may verify the accuracy of their own information in the voter list. Before mailing/posting pre-ballot notice, prepare the voter list to be ready for any verification requests.

04/14/2021

◀ **Voter List and Candidate Registration List Correction Deadline**

Last day for members to report errors or omissions in the voter list or candidate registration list to the inspector(s) of election. Any errors or omissions must be changed or corrected within two (2) business days of being reported. Members are allowed to verify their **own** information **only** on either list. Do not provide a copy of the voter list or candidate registration list to any owner during the election process. They may be subject to disclosure after the election as part of a records request.

Ballot and Election Rule Mailing Date and Finalize Voter List ▶

04/19/2021 to 04/24/2021

Earliest and latest dates to mail or otherwise deliver ballots to the members. Also last date to deliver election rules to the members by either individual delivery (mail) or posting them to the Association's internet website address identified on the ballot. Also finalize

11/27/2020

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