

KWPOA Election Rule

Preamble

Effective July 1, 2006, for elections occurring on or after that date, the California Legislature has enacted legislation which will modify our current election procedures as provided for in the Kent woodlands Property Owners Association's current By-Laws. This new legislation (SB 61) (as amended by the California legislature on September 18, 2006) requires a homeowners association to adopt rules that meet specific standards. The purpose of the following rule is to achieve compliance with the new law while maintaining the general scheme of our current By-Laws.

Article I: Elections

The following rules shall apply to KWPOA elections held for any of the following reasons:

- Election of Directors
- Assessments (other than special individual assessments as defined under Article 4, Section 4 of the CC&Rs)
- Amendments to the CC&Rs or By-Laws

Article II: Candidacy for Board of Directors

The qualifications for candidates to serve on the KWPOA Board of Directors are:

- (i) Members in good standing with all Assessments current and whose Kent Woodlands property is subject to the CC&Rs
- (ii) Members who are not subject to any suspension of membership rights
- (iii) Only one Owner per Lot shall be eligible to serve on the Board at any time

The KWPOA Board will publish a copy of this rule in its October Newsletter each year preceding a Board Election to take place in January, thereafter. Candidates must submit a written statement of qualifications to the Board of Directors no later than October 31, each year. The Board of Directors will hold a special membership meeting in the month of October to allow nominations from the floor. The Board shall accept into nomination all individuals who meet the qualifications for candidates.

Article III: Election Procedures

The Board shall do the following:

- Set dates for the opening and closing of the Balloting Period; Ballots will state the date latest time when ballots may be received;
- Set the date and place for a vote count;
- Appoint as the Inspectors of Election three independent third parties who are members in good standing of the KWPOA and meets the definition of independent third party as specified in this article;
- Arrange for a double envelope secret ballot by mail which meets the requirements of the statute (add reference) as specified in Article IV;
- Provide Notice of the place and time of the ballot count, which place must be a public place in the proximity of Kent Woodlands;
- Assure that the counting process meets the requirements of Articles IV and V;
- Establish a procedure to allow for proxy voting; and,
- Store election ballots in a secure place for one year after the date of the vote count; in the event of a recount or other challenge to the election process, make ballots available, upon written request, to association members or their designated representatives; any recount will be conducted using the same counting procedure as for the original election, unless otherwise ordered by a court.

Independent Third Party. For the purposes of this section, an independent third party includes, but is 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 a member of the association, but may not be a member of the Board of Directors or a candidate for the Board of Directors or related to a member of the Board of Directors or a candidate for the Board of Directors. 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 unless expressly authorized by rules of the Association.

Article IV: Ballot

Ballot Format and Delivery. Ballots and two preaddressed envelopes 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 30 days prior to the closing of the balloting period. In order to preserve confidentiality, a voter may not be identified by name, address, or lot, parcel, or unit number on the ballot. The association shall use as a model those procedures used by California counties for ensuring confidentiality of voter absentee ballots, including all of the following:

- The ballot itself is not signed by the voter, but 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 lot, or parcel, or unit number that entitles him or her to vote.
- The second envelope is addressed to the Inspectors of Election, who will be tallying the votes. The envelope may be mailed to a location specified by the inspectors of election. The member may request a receipt for delivery, if ballot delivered by hand to a place designated by inspectors.

The Count and Publication:

- All votes shall be counted and tabulated by the Inspectors of Election in public at a properly noticed open meeting of the Association members.
- Any candidate or other member of the association may witness the counting and tabulation of the votes. No person, including a member of the association, shall open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated.
- The results of the election shall be promptly reported to the board of directors of the association 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. Within 15 days of the election, the board shall publicize the results of the election in a KWPOA Newsletter directed to all members.
- The sealed ballots at all times shall be in the custody of the inspectors of election or at a location designated by the inspector or inspectors until after the tabulation of the vote, at which time custody shall be transferred to the association.

Article V: Inspectors of Election Duties.

- Inspectors of election shall do all of the following:
- Determine the number of member households to vote and allow one vote per household;
- Determine the authenticity, validity, and effect of proxies;
- Receive ballots by use of a post office box exclusive to the election process and by hand delivery, if so determined;
- Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote;
- Count and tabulate all votes;
- Determine the result of the election; and,
- 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 the association regarding the conduct of the election that are not to conflict with this section.

Article VI: Miscellaneous

- **Proxies (Amended on July 25, 2013).** All proxies issued for an election under this rule must contain the procedures for use in casting votes by secret ballot as a proxy holder. Such procedure must be separate from the ballot. Any KWPOA member in good standing may appoint another KWPOA member in good standing as proxy holder to vote by secret ballot in conformance with procedures set forth and issued with the proxy and in conformance with Article IV, Section 5 of the KWPOA By-Laws. As with all voting wherein a proxy is allowed, to ensure that any proxy form complies with the Corporations Code and is counted by the Inspectors of Election, members should use only the proxy form approved by KWPOA, which form will be provided by KWPOA upon request. KWPOA shall not designate or suggest any proxy holder.
- **Equal Access.** The Board, at its discretion may make the KWPOA Newsletter, KWPOA website, or other venue available for campaign purposes, so long as that methodology is available to all candidates, members advocating a point of view in the case of Amendments, assessments, etc., and is not edited or redacted by the KWPOA but subject to such limitations on length as the Board may establish.

This Rule shall apply to all KWPOA membership elections henceforth to the extent it is consistent with the provisions of 1363.03 of the California Civil Code (CCC). In the event that this Rule is inconsistent with the KWPOA By-Laws, this Rule shall apply to the extent it is consistent with the provisions of 1363.03 of the CCC.