

Changes to Bylaws to be voted on in June 2024

The Bylaws committee has been very busy trying to clarify the bylaws so that we follow the law (HPPOA is governed by 414D and 421J under the law) and make the bylaws readable and understood by everyone in the community.

Below are the portion of the Bylaws to be presented to the General Membership in June for voting. The deletion of wording is ~~striked~~ through. Addition of wording is in **bold and underlined**. A reason is given for the changes. On June 30, 2024 the portions that have NO CHANGE listed by them will NOT be voted on, only sections with a change will be voted on by the Membership.

ARTICLE IV – OBJECTS AND PURPOSES

The objects and purposes of the Association ~~are defined as expressed below follow the intent of the Charter in the Charter and are as follows:~~ **as expressed below follow the intent of the Charter**

- (a) To ascertain the needs and desires of lot owners of the Hawaiian Paradise Park subdivision and represent those needs and desires as appropriate **in accordance with all applicable bylaws and laws.**
- (b) To manage, protect, maintain, and improve ~~the improved and unimproved~~ **all** real properties and other assets of the Association and to provide usual administrative and executive functions necessary to the operation and management of the Association.
- (c) To maintain, manage, preserve, and protect the ~~commonly-owned~~ roadway easements in increments I and II, which shall be used in common with others for roadways and utility purposes.
- (d) To serve as a representative of lot owners of Hawaiian Paradise Park to government agencies, officials, and community organizations on issues affecting or arising from Hawaiian Paradise Park.
(NO CHANGE)
- (e) To foster an atmosphere of cooperation and harmony that **actively seeks and** encourages the participation of lot owners in the management and operation of the Association.
- (f) To administer the financial affairs of the Association in ~~a~~ **an expeditious, legal, and** responsible manner.
- (g) To promote social and recreational activities within the Hawaiian Paradise Park subdivision.
(NO CHANGE)
- (h) To assist the Hawaii County Department of Civil Defense and other recognized relief organizations at the discretion of the board.
(NO CHANGE)

REASON: Article IV – OBJECTS AND PURPOSES was presented at the Feb 24, 2024 General Membership Meeting. There was concern expressed as to the similarity to the language in the Charter of HPOAA, so it was tabled. The changes address that concern and further clarification.

ARTICLE VI – MEMBERSHIP AND VOTING

Section 1. Types of Membership. There shall be two types of membership:

(a) Members. Lot owners of record of the Hawaiian Paradise Park, Increments I and II, hereinafter referred to as "member" or "membership," shall constitute the Association. The owner of any lot upon acquiring title thereto shall automatically become a member of the Association and shall remain a member thereof until such time as ownership ceases for any reason, at which time membership in the Association shall automatically terminate. Lot owners shall include all individuals and entities (partnerships, corporations, limited liability companies, limited liability partnerships, and trusts) holding legal title as tenants-in-severalty, tenants-in-common, joint tenants, or tenants by the entirety. ~~Lot owners may decline membership in writing only addressed to the HPPOA office. Former members may rejoin Association membership upon receipt of a written statement sent to the HPPOA office. Lot owners declining membership forfeit all voting rights. All lot owners, regardless of Association membership must pay Road Maintenance Assessments and comply with Association bylaws and policies.~~

REASON: These were changes made by Bylaws committees in 2015 and 2017 and further supported by suggestions from lawyer that all owners must be members and membership cannot be terminated. The present Bylaws committee agrees.

(b) Associate Members. An annual associate membership shall be available to those people who are not otherwise qualified to be members. Associate members do not have the right to vote or hold office. The annual associate membership fee shall be established by a majority vote of the board. (NO CHANGE)

Section 2. Voting Rights of Members. Each lot, provided road maintenance assessments are current, shall be entitled to one vote in matters voted upon by the Association, subject to Article XI. In the case of multiple ownership, only one vote shall be cast per lot. Votes may be cast in person or, in the case of mail-in votes, by mail-in ballot by the respective lot owner as shown in the record of ownership of the Association. (NO CHANGE)

In complying with 421J rules we need to determine if the General Membership wants to use proxies for the General Membership meetings. 421J indicates that proxies can be used, but does not state they must be used. Therefore, this major issue is being put forth to the community. If the June 30th General Membership votes to approve the use of proxies at its meetings, the Bylaws committee drafted language for Section 3 of ARTICLE VI to be approved. The committee also drafted a form, if approved by the Membership, which will be used to grant a proxy. HOWEVER, if the General Membership at the June 30th meeting decline to use proxies, all the language and form will be expunged.

The use of proxies for General Membership meetings has pros and cons

<https://charitylawyerblog.com/2021/08/23/the-pros-and-cons-of-proxy-voting-for-nonprofits/>

Section 3. Proxy Votes. Proxy votes are not permitted.
(NO CHANGE if the membership votes NO on proxies)

However, if the membership votes to have proxies the following new Section 3 will be added with membership approval.

Section 3. Proxy Votes

(a) Granting of Proxy Votes

Proxy votes may only be used at Membership Meetings.

A proxy vote shall be created by the submission of a HPPOA official proxy form which requires the identification of the person granting the proxy, the TMK for the property from which the vote is derived, the identification of the person who the proxy is granted to and their TMK. Both the proxy grantor and grantee must be members in good standing.

Each TMK for which a proxy is being granted must be listed on the proxy form. Any TMKs not listed shall not count.

Proxy votes are granted for only the Membership Meeting listed on the form.

Proxy votes may be granted for only one of the following four choices:

- 1. For quorum purposes only.**
- 2. To an individual whose name is printed on the Proxy form.**
- 3. To the board of directors as a whole and that vote be made on the basis of the preference of the majority of the directors present at the meeting; or**
- 4. To those directors present at the meeting and the vote to be shared with each board member receiving an equal percentage.**

Proxy forms that are returned with no choice or more than one of the four choices above shall be counted for quorum purposes only.

To be valid, a proxy must be received by the HPPOA Administrative Office no later than 4:00 pm on the 5th business day prior to the date of the Membership Meeting to which it pertains. Proxy forms may be hand delivered, put in the drop box, or sent via USPS or other postal service to the HPPOA Administrative Office.

Individuals who grant a proxy vote to another individual no longer have the right to actively participate in the meeting identified on the proxy form either through discussion or voting, except as an observer, unless they revoke their proxy.

(b) Revocation of Proxy Votes

To revoke a proxy, the individual who granted the proxy must complete the revocation section of the original proxy form in person, which is in possession of HPPOA. Revocations must be completed no later than an hour prior to the Membership Meeting to which it applies.

REASON: This will ONLY be voted on if the membership votes to have proxies at the June 30, 2024 meeting.

ARTICLE VII – MEMBERSHIP MEETINGS

Section 1. Regular Meetings. Membership meetings shall be held three times a year for the purpose of transacting such business as may come before the Association. Membership meetings shall be held at 3 p.m. Hawaii standard time on the last Sunday in the months of February, June and October. In support of Article IV, Objects and Purposes, the directors shall actively seek and consider member suggestions for agenda content. (NO CHANGE)

Section 2. Special Meetings. A special membership meeting may be called by a two-thirds vote of the board, or by the written request of not fewer than 100 members in good standing, and shall be called by the secretary or an agent directed to do so by the board. Special membership meetings must be held within 45 days of being legally called, and notices must be sent by mail **or email (based upon members preference)** to members 30 days in advance of the meeting date. The Administrative budget shall contain funds for a special membership meeting.

REASON: We are moving into the 21st century and implementing the use of emails to reduce the cost of mailings.

Section 3. Acts of the Association. The acts of a majority of the membership present at any membership meeting at which a quorum, as per Article V, Section 12, is present shall be the acts of the Association except as otherwise provided herein. (NO CHANGE)

Section 4. Place of Meetings. Membership meetings shall be held at the Hawaiian Paradise Park Activities Center or other such suitable place on the island of Hawaii, in the District of Puna, as designated by the board. (NO CHANGE)

Section 5. Change of Meeting Date, Time or Place. In the event of a change of the date, time or place of the Membership Meeting, members shall be notified at least thirty days in advance. (NO CHANGE)

Section 6. Order of Business. The order of business at membership meetings shall be in accordance with Robert's Rules of Order Newly Revised, version to be determined by the sitting board annually and shall include a period for public commentary from members. Commentaries may be limited to three minutes per member. (NO CHANGE)

Section 7. Conduct of Meeting. Membership meetings shall be conducted in accordance with Robert's Rules of Order Newly Revised, except as otherwise noted in these bylaws or when some other generally accepted rules for the conduct of such meetings are designated or adopted by a majority vote of the membership. (NO CHANGE)

ARTICLE VIII – BOARD OF DIRECTORS

Section 1. Number and Qualification. The affairs of the Association shall be governed by a board composed of nine persons, who must be members in good standing **members who are in good standing and have no conflict of interest pursuant to Article V, Section 14 and Article VIII, Section 11.** HPPOA employees shall not serve on the board of directors. The directors must be able to attend board and membership meetings in person and serve on committees of the board. They shall serve without compensation or reimbursement of cost incurred **to attend as a result of attendance at meetings. There shall not be more than one representative on the board of directors from any one unit property that is owned by any one person.**

REASON: The 2015 Bylaws committee made some changes. Additional changes according to lawyer's request. This bylaws committee agrees.

Section 2. Terms.

(a) A district term is three consecutive years on an established schedule. Elections of directors shall occur as per Article VIII. The schedule of district terms is established as follows:

DISTRICT	DISTRICT TERM EXPIRES JUNE OF STATED YEAR
1, 6, and 9	2025, 2028, 2031 , and so on
5, 7, and 8	2026, 2029, 2032 , and so on
2, 3, and 4	2027, 2030, 2033 , and so on

REASON: Updating to the present time

(b) A director may hold office for more than one term but not for more than two consecutive terms. Any partial district term vacancy that is filled by board appointment or election is not considered a 'term' for purposes of Section 2(a). (NO CHANGE)

(c) The remaining term for any appointed or vacant director position shall be filled through election at the next annual election. Any director elected under such conditions shall only serve the remainder of that district's term. (NO CHANGE)

(d) Terms of the board commence immediately following adjournment of the June membership meeting at which the election results are announced. (NO CHANGE)

~~(e) Board members, elected or appointed, must be sworn in and sign the Oath of Office, Appendix C, in open forum before assuming their positions. The Oath of Office shall state the directors will promise to uphold the bylaws and policies of the Association.~~

REASON: This section was moved to Section 4. Elections. (h).

~~Section 3. Districts. The subdivision is divided into nine districts as set forth in Appendix A and more particularly defined in the map attached as Appendix B. The Association shall maintain an accurate list of which lot owners are members of each of the nine districts.~~

REASON: This portion will be placed into ARTICLE V -Definitions. This was suggested by the lawyer. The Bylaws committee agrees.

Section 3.4. Nomination.

~~(a) Any member in good standing whose property is within the boundaries of a district, may be nominated to be a director for that district.~~

(a) Directors shall be nominated from each district and will be elected by members in that district only.

~~(a) A member whose property is within the boundaries of a district may be nominated to be a director for that district. To be considered qualified to be nominated for election:~~

- (i) They must be a member in good standing (see Article V, Section 10).
- (ii) They must not have an existing conflict of interest (See Article VIII, Section 11) with HPPOA.
- (iii) They must not have resigned or been recalled from a board of director position within the past three years.

(b) A minimum of two nominees must be sought from each district due for election. If two nominees from each district are not received, the Nominating Committee, as per ARTICLE X, shall exercise its best efforts in nominating any qualified and willing candidates to stand for election to the board in that district. (NO CHANGE)

(c) **All nomination applications must be turned into the Association Administrative Office for collection. The deadline for receipt of nomination application shall be the end of the third week of March.**

(i) The office is responsible to provide all nomination forms to the Nominating Committee each Friday by noon until the deadline.

(ii) The office will maintain a copy of all nomination forms.

(iii) It is the responsibility of the office to ensure applicants are not in arrears.

(iv) Any further vetting and validating of applications is the responsibility of the Nominating Committee, see Article X(b)(3).

The board shall pass all nominations received to the Nominating Committee.

REASON: The one statement was too vague, instructions were added for clarification.

(d) Nominations shall be submitted by the Nominating Committee to the Association Administration Office for preparation of the ballots. ~~The deadline for receipt of nominations shall be the end of the third week of March.~~

REASON: The deadline was stated earlier.

Section 4.5. Elections

(a) ~~Each year~~ **Yearly** the members in each voting district whose district's representative's term expires, or whose director's position is vacant or is being filled by a board **appointee because of vacancy**, shall elect a new director by confidential mail-in ballot. Prior to the ballot mail-out, the board shall select a reputable neutral entity to receive, count, and report on the election results.

REASON: clarification

(b) The board shall advise the membership of the districts requiring elections and that applications are open for willing and qualified candidates from those districts to stand for election as per Article XII, **Section 3.1 Communications to Members, 1. Notices.**

REASON: clarification

(c) If **only** one willing and qualified nominee comes forward within a district, and the Nominating Committee is unable to identify a second candidate, that Nominee will be permitted to run unopposed. If no willing and qualified nominee comes forward **for an election** from within a district and the Nominating Committee is unable to identify a candidate, **or if a vacancy occurs during or after an election**, the board seat for that district shall be deemed vacant **until the first Board meeting of the new term in July**. In that case, it will be filled **by the incoming new board** in accordance with the normal procedures ~~for filling seats on the board which become vacant as per Article VIII as described in Section 6 below.~~

REASON: clarification

(d) Mail-in ballots shall be prepared by the general manager, reviewed by the Nominating Committee and mailed to the members of the applicable districts by the **Board** secretary or general manager at least 30 days prior to the date of the election.

REASON: clarification, suggested by lawyer

(e) The mail-in ballot shall list the names of the nominees, their unedited statements of qualification (200 words or fewer), and the date of the election. (NO CHANGE)

(f) The date of the election shall be the first business day of June. To be counted, ballots must be received by ~~the close of business on 4 pm on~~ the first business day of June. The election results ~~are determined as shown in the following matrix~~ and shall be reported to the board within 14 days after the election. **The winner of an election for any board seat shall be the candidate with the largest number of valid votes cast.** ~~a majority of valid votes cast, or if no candidate has a majority, then the winner shall be the candidate with the largest number of votes. In case of a tie, the winner shall be decided by the drawing of straws.~~

Election Results	One Candidate	Two Candidates	More Than Two Candidates
Decides Winner	Not applicable; Unopposed	Majority Vote	Preferential Voting
In Case of Tie	Not applicable; Unopposed	Candidates draw straws	

REASON: This was voted by a previous bylaw committee in 2015 and this bylaws committee agrees.

(g) The results of the election shall be reported to the membership at the June Membership Meeting. (NO CHANGE)

(h) **Board** members, elected or appointed, must be sworn in and sign the Oath of Office, Appendix C, in open forum before assuming their positions. The Oath of Office shall state the directors will promise to uphold the bylaws and policies of the Association.

REASON: This is from Section 2. Terms (e) with clarification.

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