

# **ELECTION RULES**

These voting and election rules were adopted by the board on February 26, 2020 and are intended to comply with the requirements of Civil Code §5105, et seq. These rules will stay in effect until modified by the board of directors pursuant to Civil Code § 4360et seq. or

## **ARTICLE 1 VOTING PROCEDURES**

- 1.1 Voting by Secret Ballot. Not less than 30 days prior to voting period, the association will mail to each member of the association, by first-class mail or personal delivery, a ballot, an instruction sheet, and two pre-addressed envelopes with instruction on how and where to return the ballot. In order to preserve confidentiality, a voter will not be identified by name or address on the ballot. The ballot itself is not signed by the voter, but is inserted into an envelope that is sealed. This envelope is then inserted into a second envelope addressed to the inspector(s) of election. The voter then seals the outer envelope and, in the upper left hand corner prints and signs his/her name, address, (and unit number, if applicable) which entitles him/her to vote.
- 1.2 Voting Period. Ballots may be mailed to the inspector(s) of election at the address designated in the instruction sheet. The ballot must be received by the inspector(s) before the end of the voting period or it will be disregarded. Once a secret ballot is received by the inspector(s), it shall be irrevocable.
- 1.3 Election by Acclamation Not Permitted. Elections by acclamation are not permitted. Even if, after the close of nominations, the number of people nominated for the board is not more than the number of directors to be elected, the association must still conduct the election in accordance with these voting and election rules.
- 1.4 Tabulation of Ballots. The inspector(s) of elections will count and tabulate all votes in public at a properly noticed open meeting of the owners or board of directors. Any candidate or other owners may witness the counting and tabulation of the votes. No person shall open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated.
- 1.5 Candidate List & Voter List. The association shall retain, as association election materials, both a candidate registration list (“Candidate List”) and voter list (“Voter List”). The Voter list shall include the name, voting power, and the physical address of the Member’s Unit. The mailing address for the ballot shall be listed on the Voter List if different from the physical address of the Member’s Unit.

- 1.6 Reporting results. The inspector(s) will promptly report the results of the election to the board. The board will record the results in the minutes of the next meeting of the board and make the results available for review by any member of the association at any time after the results are received from the inspector(s). The board will publicize the results of the election in a communication directed to all owners within 15 days of the election.
- 1.7 Ballot Custody. The sealed ballots, proxies, if any, signed voter envelopes, Candidate List, and Voter List shall at all times remain in the custody of the Inspector(s) or at a location designated by the Inspector(s) until after the tabulation of the vote, at which time custody will be transferred to the association. They will be stored in a secure place for one year after the date of the election. In the event of a recount or other challenge to the election process, the association will, upon written request, make the ballots, proxies, if any, and envelopes available for inspection and review by owners and their authorized representatives. Any recount or other challenge to the election process will be conducted in a manner that will preserve the confidentiality of the vote.
- 1.8 Elections by Mail-In Ballot. Unless otherwise restricted by the CC&Rs or bylaws, all elections covered by these rules may be conducted by mail-in ballot alone, except for the meeting to count the votes.
- 1.9 Modification of Rules. These rules shall be construed to conform to any legislative changes in Civil Code § 5100 et seq. without any further adoption procedures. Any other change in these rules shall be done only after 28 days written notice to all owners in accordance with the provisions of Civil Code § 4360.

## **ARTICLE 2 INSPECTORS OF ELECTION**

- 2.1 Inspector(s) of Elections. The board of directors, in its sole discretion, shall appoint one or three independent third parties to serve as the inspector(s) of elections (Collectively, “Inspector”).
- 2.2 Qualifications of Inspector(s) of Elections. The independent third-party Inspector may be 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, but may not be a Board member, candidate for the Board, or a person related to a Board member or candidate for the Board. 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 Inspector.
- 2.3 Indemnification of Inspector(s). The association will defend, indemnify and hold harmless the inspector(s) of elections from any and all claims, demands, damages, costs, liabilities and expenses arising out of his/her activities absent gross negligence or willful misconduct.

- 2.4 Duties of Inspectors of Elections. Inspector(s) of elections shall have the following duties: (a) perform any acts as may be proper to conduct the election with fairness to all owners in accordance with these rules; (b) determine the number of ownerships entitled to vote and the voting power of each; (c) determine the authenticity, validity, and effect of proxies, if any; (d) receive ballots; (e) hear and determine all challenges and questions in any way arising out of or in connection with the right to vote; (f) count and tabulate all votes in such a way as to preserve their secrecy (g) determine when polls shall close; and (h) determine the results of the election. An inspector shall perform his/her duties impartially, in good faith, to the best of his/her ability, and expeditiously as is practical. If there are three inspectors, the decision or act of a majority shall be effective in all respects as the decision or act of all. Any report made by the inspector(s) of election is prima facie evidence of the facts stated in the report.
- 2.5 Inspector(s) Ability to Appoint Additional Persons. The Inspector(s) shall have the right to appoint and oversee such additional persons as the Inspector deems appropriate to verify signatures and to count and tabulate votes, provided that the persons are independent third parties.

### **ARTICLE 3 CANDIDATES FOR THE BOARD OF DIRECTORS**

- 3.1 Candidate Qualifications. A candidate for the board of directors shall be the record owner of a unit in the association's development.
- 3.2 Nominating Procedure. The procedures for nominating a candidate for the board of directors are as follows: an owner may nominate himself or herself as a candidate; All nominations to be included in the written ballot must be in writing and delivered to the association on or before the Nomination Deadline described in Section 3.3 below.
- 3.3 Notice of Nomination Form & Nomination Deadline. Not less than thirty (30) days before the nomination deadline, the association shall provide via general delivery a "Nomination Form" that discloses the nomination procedures and nomination deadline. The deadline for submitting a nomination ("Nomination Deadline") shall not be less than thirty (30) days before ballots are distributed. The Nomination Form shall be delivered by individual notice pursuant to California Civil Code section 4040 if requested by a Member.
- 3.4 Disqualification & IDR. The association shall not disqualify a person from nomination if the person has not been provided with the opportunity to engage in Internal Dispute Resolution ("IDR") with the association, in accordance with the association's established IDR procedures. The nomination form may include an offer of IDR to all persons who may be subject to disqualification due to their failure to meet the candidate qualifications at the time of nomination.

## **ARTICLE 4 VOTING RIGHTS**

- 4.1 Voting Power. The owners of each unit shall one vote per unit, except for the election of directors, where each unit shall have one vote for each vacant director position to be elected. When two more units have been combined, the owners of the combined unit shall have all of the votes associated with all of the combined units. Where there are multiple owners of a single unit, they shall decide among themselves who among them shall cast the vote on behalf of the unit. If one vote is cast on behalf of a single unit, then it shall be conclusively presumed that the vote was cast by the authorized owner. If more than one vote is cast on behalf of a single unit, then all such votes shall be disregarded.
- 4.2 Cumulative Voting. Owner may cumulate votes and give one candidate the number of votes equal to the number of Board members to be elected. Or distribute votes among as many candidates as he thinks fit.
- 4.3 Proxies. A “proxy” means a written authorization signed by an owner or the authorized representative of an owner that gives another owner or owners the power to vote on behalf of that owner. The owner to whom a proxy is given is called a “proxy holder”. The owner who gives a proxy may restrict the proxy holder’s authority to vote in accordance with his or her instructions. Any instructions that restrict the manner in which the proxy holder can vote must be set forth on a separate page and attached to the proxy, so that it can be detached and given to the proxy holder when the proxy is delivered to the inspector(s) of elections. A proxy and a ballot cannot be combined. A proxy may not be used as a ballot. All proxies must be submitted to the inspector(s) of elections before the close of the voting period. Failure to file a proxy with the inspector(s) of elections before the close of the voting period invalidates the vote by proxy.
- 4.4 Quorum. A quorum shall be required in accordance with the bylaws. Each ballot received by the inspector(s) of elections shall be treated as an owner present at a meeting for purposes of establishing a quorum.

## **ARTICLE 5 ASSOCIATION ACCESS**

- 5.1 Access to Association Media. If the association should ever have association media, newsletters, or internet web sites and provide access during a campaign, for purposes reasonably related to the election, to any candidate or member advocating a point of view, the association will provide equal access to all candidates and members advocating a point of view, including those not endorsed by the board.
- 5.2 Restrictions on Editing. If the association should ever have association media, newsletters, or internet web sites and provide access during a campaign the association will not edit or redact any content from campaign communications, but may include a statement specifying that the candidate or member, and not the association, is responsible for the

content of the communications. The association and its directors, officers, and agents shall be immune from liability for the content of those communications. The association may require the person submitting a potentially defamatory or obscene communication to sign an indemnity and hold harmless agreement protecting the association from liability for the publication.

- 5.3 Access to Association Meeting Space. The association will provide access to the common area meeting space by the pool during a campaign, to all candidates, including those who are not incumbents, and to all owners advocating a point of view, including those not endorsed by the board, for purpose reasonably related to the election. Access shall be provided at no cost to the owners.
- 5.4 Campaign Fund Restrictions. Association funds will not be used for campaign purposes in connection with any association board election. Funds of the association will not be used for campaign purposes in connection with any other association election except to the extent necessary to comply with duties of the association imposed by law. Campaign purposes include, but are not limited to, the following: (a) expressly advocating the election or defeat of any candidate that is on the association's election ballot; and (b) including the photograph or prominently featuring the name of any candidate on a communication from the association or its board, excepting the ballot and ballot materials, within 30 days of an election. This restriction does not prevent distribution of campaign materials as otherwise specifically allowed under the equal access provisions of these rules.