

OCEANSIDE COMMUNITY ASSOCIATION

ELECTION RULES & PROCEDURES

ATTENTION: INSPECTOR OF ELECTIONS

CAMPAIGN FUNDING

- (1) Association funds shall not be used for campaign purposes in connection with any Association Board election. Funds of the Association shall 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.
- (2) For the purposes of this section “campaign purposes” include, but are not limited to the following:
 - (a) Expressly advocating the election or defeat of any candidate who is on the Association election ballot.
 - (b) Including the photograph or prominently featuring the name of any candidate on a communication from the Association of its Board of Directors, excepting the ballot and ballot materials, within 30 days of an election. This is not a campaign purpose if the communication is one for which subdivision (a) of Section 5105 requires that equal access be provided to another candidate or advocate.

NOMINATING PROCEDURES

- (1) Qualifications for candidates to the Board of Directors shall include:
 - (a) Candidates must be members of the Association. Any Member that is not a natural person (such as a corporate Member or trust) may appoint a natural person to be a candidate on its behalf.

(b) Only one Owner per Lot or Unit shall be eligible to serve on the Board at any time.

(c) No Member shall be nominated for election to the Board of Directors, nor permitted to run for election, if he or she is more than thirty (30) days past due in the payment of any assessment. The failure to comply with this section shall in no way invalidate the election of other candidates who were in compliance with this section.

(2) At least thirty (30) days prior to the deadline for submission of candidacy nominations, the Association shall provide via general notice the procedures and deadline for submitting a candidacy nomination. The procedure may include, but is not limited to the following:

(a) Each candidate for a vacancy on the Board of Directors is requested to complete, sign and return to the Nominating Committee an application form with biographical information for delivery with the election ballots; and

(b) A statement of understanding and agreement form to signify availability and commitment to serve, consult Governing Documents and abide by current laws, if elected.

Such forms shall be approved by the Board and made available in the Association Office.

(2) Voting

(a) Voting Rights – No Member shall be denied a ballot, unless the Board adopts a voting cut-off date and an individual was not a Member of Record as of that date. Each Member shall be entitled to one (1) vote. No Member, regardless of the number of Lots or Units owned, shall be entitled to more than one (1) vote except as the holder of proxies from other Members. In any

vote to elect or remove Directors of the Association, each Member shall be entitled to one (1) vote for each Director to be elected or removed. In the case of a vote on other issues, each Member shall have one vote for each issue presented. In the event that voting on an issue is conducted by mail, the written ballot shall conform with the provisions of Section 7513 of the California Corporations Code and Article IV Section 5 of the Association's Bylaws. Cumulative Voting is not allowed.

(b) Joint Fee Interest –Ownership of a Lot or Unit shall give rise to a single membership vote in the Association. Accordingly, if more than one (1) person owns a Lot or Unit, all of those persons shall be deemed to be one (1) Member for voting purposes. The ballot received from any Member of record shall be deemed to be the ballot attributable to the Lot in question. If more than one vote is received from a single Lot or Unit, the first vote received shall be conclusively presumed to be the vote of all such persons.

(c) Voting Cut Off Date - The Board may, but is not required to, set the date the ballots are mailed or otherwise delivered as the “voting cut-off date” to establish membership status for voting. Every Member of record shall have the right to vote, unless the Board adopts the voting cut-off date and an individual was not a Member of Record as of that date.

(d) Loss of Ballot – If a Member loses his/her ballot prior to the annual meeting, the Member may request another ballot, along with the appropriate envelopes from the Inspector(s) of Election, but they must sign a statement, under penalty of perjury that the original ballot was either lost, destroyed or never received. The Inspector(s) of Election shall maintain a record of each request and, if it is determined that the Member voted twice, even by mistake, the Inspector(s) of Elections shall determine whether or not to count the first ballots received from the Member

(e) Secrecy of Ballots – A Member who signs or otherwise marks his/her ballot with an identifying mark, waives his/her right to secrecy. The Association is not responsible for

removing or redacting personal information that is added to the ballots by the Member.

(f) Voting Period – The voting period will commence when the ballots are sent to the Members and will close 2 hours after commencement of the annual meeting, or any adjournment thereof, or the final collection of ballots for counting, whichever occurs first.

QUORUM

- (1) A quorum shall be required only if so stated in the Governing Documents of the Association or other provisions of law. If a quorum is required by the Governing Documents, each ballot received by the inspector(s) of election shall be treated as a Member present at a meeting for purposes of establishing a quorum.
- (2) If a quorum is present, the affirmative vote of the majority of the Members represented at the meeting, entitled to vote and voting on any matter (other than the election of Directors) shall be the act of the Members, unless the vote of a greater number is required by California law or by the Governing Documents. In the case of Director elections, the candidates receiving the highest number of votes shall be elected to the vacant Director positions.

INSPECTOR(S) OF ELECTION

- (1) The Board shall appoint either one (1) or three (3) independent third parties as Inspector(s) of Election. The Inspector(s) of Election should be selected by the Association at least 90 days prior to the date of meeting at which ballots will be tabulated.
- (2) For 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 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.

- (3) The Inspector or Inspector(s) of Election shall do all of the following:
 - (a) Determine the number of memberships entitled to vote and the voting power of each.
 - (b) Determine the authenticity, validity, and effect of proxies, if any.
 - (c) Receive ballots and/or determine a location where ballots are to be delivered.
 - (d) Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.
 - (e) Count and tabulate all votes.
 - (f) Determine when the polls shall close, consistent with the governing documents.
 - (g) Determine the tabulated results of the election.
 - (h) Perform any acts as may be proper to conduct the election with fairness to all members in accordance with this section, California law, and all applicable rules of the association regarding the conduct of the election that are not in conflict with this section.
- (4) An Inspector of Election shall perform his or her duties impartially, in good faith, to the best of his or her ability, and as expeditiously as is practical, and in a manner that protects the interest of all members of the Association. If there are three (3) Inspectors of Election, 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.

- (5) The Board of Directors may remove and replace any Inspector of Election prior to the tabulation of votes if an Inspector resigns or if the Board reasonably determines that an Inspector will not be able to perform his or her duties impartially and in good faith.
- (6) The Inspector(s) of Election shall have the power to appoint and oversee additional persons to verify signatures and to count and tabulate votes as the Inspector(s) deem appropriate, provided that the persons are independent third parties.

SECRET BALLOTS & ELECTION PROCEDURES

- (1) At least thirty (30) days prior to the deadline for submission of candidacy nomination, the Association shall provide via general notice the procedures and deadline for submitting a candidacy nomination.
- (2) After the deadline for submission of candidacy nominations, and at least thirty (30) days prior to the mailing of ballots, the Association shall prepare the candidacy registration list and voter list, which shall consist of the following:
 - (a) A candidate registration list showing the names of all candidates that will appear on the ballot; and
 - (b) A voter list which includes the name, voting power, mailing address, and separate interest address or parcel number for each member.
- (3) At least thirty (30) days prior to the mailing of ballots, the Association shall provide via general notice:
 - (a) The date, time, and physical location for the return of ballots;
 - (b) The date, time, and location of meeting; and

- (c) The names of all candidates' names that will appear on the ballot.
- (4) No Member shall be denied a ballot, unless they were not a Member at the time the ballots were distributed.
 - (a) No person who holds a valid general power of attorney for a Member shall be denied a ballot, if requested.
 - (b) A ballot cast by a person who holds a valid general power of attorney for a Member, shall be counted if received timely by the Inspector(s) of Elections.
 - (c) A person who becomes a Member after the ballots were distributed may request a ballot if the previous owner of that separate interest did not return a ballot in that election.
- (5) Ballots and two pre-addressed 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 deadline for voting. Additionally, the Association shall make available Election Operating Rules via one of the following methods:
 - (a) By mail with the ballots; or
 - (b) By posting to a website and including the corresponding website address on the ballot together with the phrase "The rules governing this election may be found here:..." in at least 12-point font.
- (6) 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, or as provided under California law, including all of the following:

- (a) 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 shall sign his or her name, indicate his or her name, and indicate the address or separate interest identifier that entitles him or her to vote.
- (b) The second envelope is addressed to the Inspector(s) of Election, who will be tallying the votes. The envelope may be mailed or delivered by hand to a location specified by the Inspector(s) of Election. The Member may request a receipt for delivery.
- (7) All votes shall be counted and tabulated by the Inspector(s) of Election or his/ her designee in public at a properly noticed open meeting of the Board of Directors or 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 or an employee of the management company, shall open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated. The Inspector of Election, or his/her designee, may verify the Member's information and signature on the outer envelope prior to the meeting at which ballots are tabulated. Once a secret ballot is received by the Inspector of Elections, it shall be irrevocable.
- (8) The tabulated 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 tabulated results of the election in a communication directed to all Members.
- (9) The sealed ballots, signed voter envelopes, the voter list, and candidate registration list shall at all times be in the custody of the Inspector(s) of Election or at a location designated by the Inspector(s) until after the tabulation of the vote, and until the time allowed by Section 7527 of the Corporations Code for

challenging the election has expired, at which time custody shall be transferred to the Association. If there is a recount or other challenge to the election process, the Inspector(s) of Election shall, upon written request, make the ballots available for inspection and review by an Association Member or his/her authorized representative. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.

- (10) After the transfer of the ballots to the Association, the ballots shall be stored by the Association for up to three (3) years, or in accordance with current California Law.
- (11) Notwithstanding any other provision of law, the rules adopted pursuant to this section may provide for the nomination of candidates from the floor of membership meetings or nomination by any other manner. Those rules may permit write-in candidates for ballots.
- (12) Except for the meeting to count the votes required in subdivision (3), an election may be conducted entirely by mail unless otherwise specified in the governing documents.

APPLICABILITY:

Elections regarding assessments legally requiring a vote, election and removal of members of the association board of directors, amendments to the governing documents, or the grant of exclusive use of common area property shall be held by secret ballot in accordance with the procedures set forth in this section, or in conformance with current California law.