

# **OCEANSIDE COMMUNITY ASSOCIATION**

## **ELECTION RULES**

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## I. INTRODUCTION

In accordance with California Civil Code Section 5100 et seq., these election rules shall govern the matters of the Oceanside Community Association requiring a vote of the Association's membership, including elections regarding assessments legally requiring a vote, election and removal of directors, amendments to the governing documents, or the grant of exclusive use of common area pursuant to Section 4600.

## ARTICLE II: DEFINITIONS

**"Association Media"** means the Association's newsletters, internet websites and/or cable channel or any other form of global communication with the membership.

**"Candidates"** include all qualifying members who completed the application process on or before the established date of the close of nominations and met the qualification standards.

**"Close of Nominations"** precludes further self-nominations, write-in candidates and nominations from the floor of the Annual Meeting.

**"Election by Acclamation"** means an election for Directors does not need to be held when the number of qualified Candidates is not more than the number of vacancies.

**"Member"** means every person or entity who is an Owner of record. Every person on the property title has a right to place a vote, whoever casts the ballot is presumed to be voting for all his/her co-owners. A spouse not on title does not have the right to vote in elections or run for the board by virtue of being married to someone who is on title.

**"Membership list"** includes name, property address, mailing address, email address, as collected by the Association but not including information for members who have opted out.

**"Quorum"** is established by each ballot received which shall be treated as a member present at a meeting for purposes of establishing a quorum.

**"Voting Rights"** may not be suspended for any reason. Civil Code §5015(g)(1) Voting rights are not determined by residency in the association. Notwithstanding any other law, the rules adopted pursuant to this section prohibit the denial of a ballot to a Member for any reason other than not being a Member at the time when ballots are distributed.

## ARTICLE III: ANNUAL MEETING DATE

The annual meeting of the Members shall be held on the third Saturday of March of each year at one o'clock p.m. of said day; provided, that should said day fall upon a legal holiday, then such annual meeting of Members shall be held at the same time and place on the next Saturday thereafter which is not a legal holiday.

## **ARTICLE IV: MEMBERSHIP ELIGIBILITY TO VOTE**

- a. Membership The Association shall have one (1) class of membership. Each Member of record shall be entitled to one vote. There shall be no more than one (1) vote cast with respect to any dwelling unit. As per the 1997 OCA Bylaws, Article III: Members and Residents, #5 Voting - No Member, regardless of the number of Dwelling 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. In the case of a vote on other issues, each member shall have one vote for each issue presented.
- b. Close of Membership List The Association shall finalize and maintain a copy of the voter list as of the date ballots were distributed. The Association must provide a ballot to anyone who is a Member at the time when ballots are distributed. The Secretary shall oversee the preparation of the membership list. Once the membership list is closed, the existing Members as of that date are eligible to vote. If a dwelling closes escrow after the close of the membership list, the voting rights will not be transferred.

## **ARTICLE V: NOMINATION PROCEDURES**

- a. Creation of the Nominating Committee The Association invites the community to recommend names of potential members for the Nominating Committee. The committee members must be Members of the Association. The Board of Directors shall approve five members at an open meeting. Once the Nominating Committee is approved by the Board of Directors, the Directors may have no further contact with the committee other than as a Candidate.
- b. Nominating Committee Responsibilities The Nominating Committee members will:
  - i. Select a Chairperson and Secretary.
  - ii. Coordinate timeline and procedures with the OCA office staff.
  - iii. Identify qualified Nominees.
  - iv. Communicate with the Nominees.
  - v. Promote endorsed Candidates through community events, publications and the website.
- c. Notice Information In addition to nominations from the Nominating Committee, Members may nominate themselves or other Members for election to the Board of Directors by way of a nomination application. Any candidate nominated by another person will be contacted to confirm that he or she agrees to be a candidate.
- d. Nomination Documents Candidates may be nominated for election to the Board of Directors by submitting a completed nomination application. The completed

nomination application includes the Nominees completion of Intent to Run and the signed Statement of Understanding. A nomination application will available at least 30 days before any deadline for submitting a nomination. Owners interested in serving as a director must complete and return the nomination application by the deadline. Directors who want to serve again must complete and return the nomination application as well. Owners can nominate themselves or another person. Completed nomination. Only those candidates who are qualified and have returned their completed application forms on time will be listed on the voting materials.

- e. Application Deadline Applications must be returned by the deadline listed on the nomination application. The completed nomination application must be received by 11:59 p.m. the day of the deadline. Applications can be hand delivered to the OCA office prior to the close of business or submitted by published email. The Candidate's name will be omitted from the ballot if the nominee fails to submit the completed application prior to the nomination deadline.

## **ARTICLE VI: ELECTION TIMELINE**

- a. At Least 30 Days Before Nomination Deadline The Association shall provide general notice of the procedure and deadline for submitting a nomination. Individual notice shall be delivered to any Member who has requested individual notice. This nomination notice shall only apply to elections of directors and to recall elections.
- b. At Least 30 Days Before Ballots are Distributed For elections of directors and for recall elections, the Association shall provide general notice of the following:
  - i. The date and time by which, and the physical address where, ballots are to be returned by mail or handed to the inspector or inspectors of election.
  - ii. The date, time, and location of the meeting at which ballots will be counted.
  - iii. The list of all candidates' names that will appear on the ballot.
  - iv. Individual notice of the above paragraphs shall be delivered to any member who has requested individual notice.
- c. Verification and Correction of Candidate List and Voter List At least 30 days before ballots are distributed, the Association shall permit Members to verify the accuracy of their individual information on the candidate list, which shall include the names and addresses of individuals nominated as a candidate for election to the Board, and on the voter list maintained by the Association, which shall include the name, voting power, and either the physical address of the voter's separate interest, the parcel number, or both (the mailing address for the ballot shall be listed on the voter list if it differs from the physical address of the voter's separate interest or if only the parcel number is used). The Association or Member shall report any errors or omissions to either list to the inspector or inspectors who shall make the corrections within two business days.

- d. Delivery of these Election Rules At least 30 days before an election, the inspector or inspectors of election shall deliver, or cause to be delivered, a copy of these Election Rules. Delivery of these Election Rules shall be accomplished by either of the following methods:
  - i. Posting the Election Rules to an internet website and including the corresponding internet website address on the ballot together with the phrase, in at least 12-point font: “The rules governing this election may be found here:”
  - ii. Individual delivery.
- e. Within 15 Days After Election The tabulated results of the election shall be promptly reported to the Board and shall be recorded in the minutes of the next meeting of the Board and shall be available for review by Members of the Association. Within 15 days of the election, the Board shall give general notice of the tabulated results of the election to all Members.

## **ARTICLE VII: ELECTION BY ACCLAMATION**

### **Additional Requirements to Seat Directors by Acclamation without Balloting in Uncontested Elections**

- a. Subject to Statutory Conditions Notwithstanding the secret balloting requirement or any contrary provision in the governing documents, when, as of the deadline for submitting nominations, the number of qualified candidates is not more than the number of vacancies to be elected, as determined by the inspector or inspectors of the elections, the Association may, but is not required to, consider the qualified candidates elected by acclamation without balloting subject to the requirements of Civil Code §5103, including the following:
  - i. The Association must have held a regular (i.e., secret ballot) election for directors in the last three years.
  - ii. The Association must provide individual notice of the election and the procedure for nominating candidates as follows:
    - 1. The Association must provide an “initial notice” at least 90 days before the deadline for submitting nominations. The initial notice must include the number of Board positions up for election; the deadline for submitting nominations; the manner by which to submit nominations; and a statement informing members that if, at the close of nominations, there are the same number or fewer qualified candidates as there are open Board positions, then the Board may vote to seat the qualified candidates by acclamation without balloting.
    - 2. The Association must provide a “reminder notice” between 7 and 30 days before the deadline for submitting nominations, which must include all of the same

information as the initial notice plus a list of the names of all qualified candidates as of the date of the reminder notice.

- b. The Association must provide, within 7 business days of receiving a nomination, (1) a written or electronic communication acknowledging the nomination to the member who submitted the nomination and (2) a written or electronic communication to the nominee indicating either (a) that the nominee is a qualified candidate for the Board or (b) that the nominee is not a qualified candidate for the Board, the basis for the disqualification, and the procedure by which the nominee may appeal the disqualification. The Association may combine the written or electronic communication described in items (1) and (2) into a single written or electronic communication if the nominee and the nominator are the same person.
- c. The Association must permit all candidates to run if nominated, except for nominees who have been properly disqualified for running.
- d. The Association Board votes to consider the qualified candidates elected by acclamation at a Board meeting for which the agenda item reflects the name of each qualified candidate that will be seated by acclamation if the item is approved.

#### **ARTICLE VIII: DIRECTOR CANDIDATE QUALIFICATIONS**

- a. Number of Directors The affairs of this Association shall be governed by a Board of Directors composed of seven persons, all of whom must be Members of the Association.
- b. Disqualification A person shall be disqualified from nomination as a candidate for election to the board of Directors for any of the following causes:
  - i. Nonmember: The Association shall disqualify a person from nomination as a candidate for not being a Member of the Association residing within the boundaries of the Oceana at the time of their election. If title to a separate interest parcel is held by a legal entity that is not a natural person, the governing authority of that legal entity shall have the power to appoint a natural person to be a member.
  - ii. Nonpayment of Assessments: The Association shall disqualify a person from nomination for nonpayment of regular and special assessments but may not disqualify a nominee for nonpayment of fines, fines renamed as assessments, collection charges, late charges, or costs levied by a third party. The person shall not be disqualified for failure to be current in the payment of regular and special assessments if either of the following circumstances is true:
    - 1. The person has paid the regular or special assessment under protest pursuant to Civil Code Section 5658.

2. The person has entered into and is in compliance with a payment plan pursuant to Civil Code Section 5665.
- iii. **Joint Ownership:** The Association shall disqualify a person from nomination as a candidate if the person, if elected, would be serving on the board at the same time as another person who holds a joint ownership interest in the same separate interest parcel and the other person is either properly nominated for the current election or an incumbent director.
- iv. **Criminal Conviction Affecting Fidelity Bond Coverage:** The Association shall disqualify a nominee if that person discloses, or if the Association is aware or becomes aware of, a past criminal conviction that would, if the person was elected, either prevent the Association from purchasing the insurance required by Civil Code §5806 or terminate the Association's existing insurance coverage required by Civil Code §5806 as to that person should the person be elected.
- c. **Opportunity for Internal Dispute Resolution Prior to Disqualification** The Association shall not disqualify a person from nomination if the person has not been provided the opportunity to engage in internal dispute resolution ("IDR") pursuant to Civil Code §5900 et seq.

#### **ARTICLE IX: CAMPAIGN**

- a. **Right to Campaign** All Members, including Directors, have a right to campaign for or against any candidate or issue.
- b. **Publication** Neither the Association nor the Inspectors may redact or edit any of the content in the Candidate statements. The Candidates are solely responsible for the content in their statements.
- c. **Funding** Association funds shall not be used for campaign purposes in connection with any Association election of directors. Association funds shall not be used for campaign purposes in any Association election except to the extent necessary to comply with the duties of the Association imposed by law. "Campaign Purposes" include, but are not limited to, the following:
  - i. Expressly advocating the election or defeat of any candidate that is on the Association election ballot.
  - ii. Including the photograph or prominently featuring the name of any candidate on a communication from the Association or the Board, excepting the ballot and ballot materials, within 30 days of an election.
- d. **Membership Register** Qualified Candidates may obtain copies of the membership register with written request. Electronic versions are free and written copies are provided upon payment of a reasonable charge.

- e. Equal Access to Association Media All Candidates and members will be granted equal access to the Association's media for purposes reasonably related to elections.
- f. No Alteration of Candidate Communications The Association shall not edit or change the content of any candidate's message but may include a statement disclaiming responsibility for the content.
- g. Equal Access to Common Area Meeting Space All Candidates and members shall be granted equal access to common area meeting space(s), if any, at no cost, for purposes reasonably related to elections.
- h. Election Signs Political signs can be posted on an individual home within ninety (90) days before an election and must be removed with fifteen (15) days after the election. Signs cannot be placed in the common area.

## **X. PROXIES**

- a. Proxy Voting So long as proxy voting is allowed by the Association's Bylaws, owners may assign their rights to vote to another Member by a proxy. To ensure secret voting, all proxies must have detachable voting directions which are to be kept by the person voting (the proxyholder). A proxy is not a ballot and shall not be construed or used in lieu of a ballot. The proxyholder must vote by a secret ballot. Proxies must comply with California law in order to be valid and may be revoked by the owner any time prior to the receipt of the ballot by the inspector of elections.
- b. Definition of Proxy "Proxy" means a written authorization signed by a Member or the authorized representative of the Member that gives another Member the power to vote on behalf of that Member.
- c. Definition of Signed "Signed" means the placing of the Member's name on the proxy (whether by manual signature, typewriting, telegraphic transmission, or otherwise) by the Member or authorized representative of the Member.
- d. Distribution of Proxies Proxies are not required to be sent out with any general mailings that include ballots. Proxies may be made available upon request by a Member, but the Association shall not be required to prepare or distribute proxies.

## **ARTICLE XI: INSPECTOR OF ELECTIONS**

- a. Selection Within 60 days prior to the election, the Board of Directors shall hire an inspector of election.
- b. Individuals Who Can Act as Inspectors of Election Independent third parties who can act as the inspector(s) of election include, but are not limited to, the following:



- i. a volunteer poll worker with the county registrar of voters;
- ii. a licensee of the California Board of Accountancy;
- iii. a notary public; and/or
- iv. a Member of the Association who is not a director or a candidate for director or related to a director or to a candidate for director;

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 an inspector of elections.

- c. Functions The Inspector shall have the responsibilities described in California Civil Code section 5110, or any successor statute, and shall perform their duties impartially, in good faith, to the best of his or her ability, as expeditiously as is practical and in a manner that protects the interest of all Members. The Inspector shall have the authority to consult with the Association's legal counsel in the event of uncertainties in the interpretation of these Election Rules, the Association's governing documents, applicable law, or as might otherwise be necessary to ensure a fair election. All such consultations shall be protected by the Association's attorney-client privilege and shall be kept confidential from all persons other than the Board of Directors.
- d. Decisions An inspector of elections shall perform all duties impartially, in good faith, to the best of the inspector of election's ability, 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, the decision or act of a majority shall be effective in all respects as the decision of all Inspectors. Any report made by the inspector or inspectors of elections is prima facie evidence of the facts stated in the report.
- e. Responsibilities The Inspector of Elections will:
  - i. Determine the number of memberships entitled to vote and the voting power of each.
  - ii. Make corrections to the candidate list or voter list within two (2) business days after receiving a report from the Association or a Member of any errors or omissions to either list prior to the distribution of ballots.
  - iii. Determine the authenticity, validity, and effect of proxies, if any.
  - iv. Deliver, or cause to be delivered, to each Member of the Association, at least 30 days before an election, ballots and a copy of these Election Rules.
  - v. Receive ballots.

- vi. Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.
- vii. Count and tabulate all votes.
- viii. Determine when the polls shall close, consistent with the governing documents.
- ix. Determine the tabulated results of the election and promptly report the tabulated results of the election to the Board.
- x. Perform any acts as may be proper to conduct the election with fairness to all members in accordance with California law and the Association's governing documents, including these Election Rules.
- f. Appointment Power of Inspectors of Election The inspector or inspectors of election shall have the power to appoint and oversee additional persons to verify signatures and to count and tabulate votes as the inspector or inspectors deem appropriate, provided that the persons are independent third parties who meet the requirements in Civil Code §5110(b).
- g. Removal of Inspectors of Election 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.

## **ARTICLE XII: VOTING METHODS**

- a. Preparing Ballots Candidates shall be placed on the ballot in alphabetical order. In an election to approve an amendment of the governing documents, the text of the proposed amendment shall be delivered to the members with the ballot.
- b. Mailing Ballots Ballots and two preaddressed envelopes with instructions on how to return ballots shall be mailed by first-class mail to every member not less than 30 days prior to the deadline for voting. In order to preserve confidentiality, a voter may not be identified by name, address, or lot, parcel, or unit number on the ballot.
  - i. 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 the voter's name, indicate the voter's name, and indicate the address or separate interest identifier that entitles the voter to vote.
  - ii. The second envelope is addressed to the Inspector who will be tallying the votes. The envelope may be mailed or delivered by hand to a location specified by the inspector. The Member may request a receipt for delivery.

- c. Voting Period The polls will open when the ballots are sent to the Members and will close at such time as determined by the Inspector(s) of Election after commencement of the meeting at which the ballots will be counted, or any adjournment thereof, or upon final collection of ballots for counting, whichever occurs first.
- d. Voting By Mail When voting by mail, ballots are irrevocable and must be returned sealed in the envelope provided. The sealed Ballot envelope must be returned by U.S. mail within the time limit specified in the voting notice to the membership. As the sealed ballot envelopes are received, they shall be held by the Inspector of Elections in a secure place without opening until expiration of the voting period. At this time, sealed envelopes shall be opened, and ballots tabulated under the supervision of the Inspector and two assistants appointed by the Board, following approved procedures for the tallying of votes.
- e. Secrecy of Ballots The Inspector shall establish procedures to ensure the secrecy of a ballot returned to a polling place and the security, confidentiality, and integrity of any personal information collected, stored, or otherwise used pursuant to this section. 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 owner.
- f. No Denial of Ballots A ballot shall not be denied to a Member for any reason other than not being a Member at the time when ballots are distributed. If a person becomes a Member after the ballots were distributed, said Member may request a ballot if the previous owner of that separate interest did not return a ballot in that election. A ballot shall not be denied to a person with general power of attorney for a Member. The ballot of a person with general power of attorney for a Member shall be counted if returned in a timely manner.
- g. Loss of Ballot If an owner loses his/her ballot prior to an election, they may request another ballot, along with the appropriate envelopes from the inspector(s) of election. The inspector(s) of election shall maintain a record of each request and, if it is determined that the owner voted twice, even by mistake, only one ballot will be counted.
- h. Non-revocable Ballots Written ballots may not be revoked once they are submitted to the Inspector(s) of Election. Once written ballots are deposited in the U.S. mail to the Inspector(s) of Election, they are considered non-revocable.
- i. Counting and Tabulation of Ballots All votes must be counted and tabulated by the inspector or inspectors of election 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 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.
- j. Custody and Retention of Ballots The sealed ballots, signed voter envelopes, voter list, proxies, and candidate registration list shall at all times be in the custody of the inspector

or inspectors of elections or at a location designated by the inspector or inspectors until after the tabulation of the vote, and until the time allowed by Civil Code §5145 for challenging the election has expired, at which time custody shall be transferred to the Association.

- k. Recount or Challenge If there is a recount or other challenge to the election process, the inspector or inspectors of elections shall, upon written request, make the ballots available for inspection and review by an association member or the member's authorized representative. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.
- l. Inspection of Association Election Materials Association election materials shall be maintained for one year after the date of the election. This includes returned ballots, signed voter envelopes, the voter list of names, parcel numbers, and voters to whom ballots were to be sent, proxies, and the Candidate registration list. Such election materials are subject to inspection and copying in accordance with Civil Code §5200, except that the signed voter envelopes may be inspected but may not be copied.

### **ARTICLE XIII AMENDMENT OF ELECTION RULES**

The Election Rules may be amended in accordance with the procedures set forth at Civil Code §4360; provided, however, that the Election Rules shall not be amended less than 90 days prior to an election.

**You may review an exact version of Civil Code Sections 5100-5145  
as published by the State of California at <http://leginfo.legislature.ca.gov>**