

Briarwood Home Owners Association No. Two, Inc.

Rules for Membership Voting by Secret Ballot

In connection with the election of directors, the following rules and procedures shall apply:

1. **Meeting at Which Secret Ballots Shall Be Tabulated.**

- 1.1 The inspectors of election shall tabulate the ballots for the election of Directors at the Annual Meeting of the owners or, if no quorum is present, at a special meeting of the Board of Directors duly noticed for the same date, time and place, as the annual meeting called for the purpose of counting ballots. The Board of Directors shall determine the date, time and place of said annual meeting of the owners and the concurrent special meeting of the Board in accordance with the Association's Bylaws.

2. **Nomination of Candidates.**

- 2.1 At least sixty (60) days before the date of the meeting at which the ballots for the election of directors are to be counted, the Association shall mail to each owner a Candidate Nomination Form.
- 2.2 According to the Association's Bylaws, the qualification(s) to serve on the Association's Board of Directors are as follows: directors need not be members of the Association.
- 2.3 Owners may nominate themselves or another person; provided, however, all candidates must meet the qualifications set forth in Section 2.2.
- 2.4 Any candidate nominated by another person will be contacted to confirm that such candidate consents to having his or her name placed in nomination for election to the Board.
- 2.5 All candidates who meet the qualifications to serve on the Board and, if appropriate, have confirmed their willingness to run for election to the Board, shall be listed on the secret ballot.
- 2.6 The Candidate Nomination Form must be returned to the Association at the address provided on, and by the deadline stated on, such form, which deadline must be at least forty-five (45) days before the date the ballots for the election of directors are scheduled to be counted.

3. **Inspectors of Election.**

- 3.1 The Board shall appoint three independent third parties as inspectors of election after the close of candidate nominations but before the secret ballots are mailed to all of the owners. An independent third party includes, but is not limited to:
 - 3.1.1 a volunteer poll worker with the county registrar of voters;
 - 3.1.2 a licensee of the California Board of Accountancy;
 - 3.1.3 a notary public;
 - 3.1.4 a member of the Association provided such member is not 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; and,
 - 3.1.5 a person who is currently employed or under contract to the Association for any compensable services.
- 3.2 Prior to the secret ballots being mailed to all of the owners, the inspectors of election shall meet to determine to whom the secret ballots shall be returned (the Ballot Collector), which may be the Association's property manager, if any.
- 3.3 The inspectors of election shall also do all of the following:
 - 3.3.1 determine the number of memberships entitled to vote and the voting power of each.
 - 3.3.2 determine the authenticity, validity, and effect of proxies, if any;
 - 3.3.3 receive ballots;
 - 3.3.4 hear and determine all challenges and questions in any way arising out of or in connection with the right to vote;
 - 3.3.5 count and tabulate all votes;
 - 3.3.6 determine when the polls shall close;
 - 3.3.7 determine the result of the election;
 - 3.3.8 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 in conflict with this section.
- 3.4 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. The decision or act of a majority shall be effective in all respects as the decision or act of all.
- 3.5 Any report made by the inspector or inspectors of election is prima facie evidence of the facts stated in the report.
- 3.6 The Board may remove and replace any inspector of election prior to the tabulation of ballots if an inspector of election resigns or if the Board reasonably determines that an inspector of election will not be able to perform his or her duties impartially and in good faith.
4. **Secret Ballot Procedure; Record Date.**
- 4.1 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.
- 4.2 Ballots must ensure the confidentiality of the voters.
- 4.2.1 A voter may not be identified by name, address, or lot, parcel, or unit number on the ballot;
- 4.2.2 The ballot may not require the signature of the voter;
- 4.2.3 The ballot itself 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.
- 4.3 Owners may return their secret ballot by mail, hand deliver it to the meeting or complete the ballot at the meeting; provided, only those ballots which are delivered to the inspectors of election prior to the polls closing shall be counted.
- 4.4 A member may request a receipt for delivery of his or her ballot.
- 4.5 The record date for purposes of voting shall be the date the ballots are mailed to all of the owners.
- 4.6 Once a secret ballot is received by the inspector(s) of election, it shall be irrevocable.
5. **Campaigning.**
- 5.1 All candidates or members advocating a point of view during a campaign, including those not endorsed by the Board, shall be provided equal access

to Association media, newsletters, or Internet Web sites (if any) for purposes that are reasonably related to the election. The Association may not edit or redact any content from these communications, but may include a statement specifying that the candidate or member, and not the Association, is responsible for that content.

- 5.2 All candidates, including those who are not incumbents, and all members advocating a point of view, including those not endorsed by the Board, for purposes reasonably related to the election, shall be provided equal access to any common area meeting space, if any exists, during a campaign at no cost.

6. **Handling of Ballots.**

- 6.1 As secret ballots are returned to the Ballot Collector, the Ballot Collector shall check off on a sign-in sheet that a ballot has been received for such unit/lot. The first secret ballot received for any unit/lot shall be the ballot which is counted. Any subsequent ballots for the same unit/lot which are received shall be deemed invalid and shall be discarded.
- 6.2 The sealed ballots at all times shall be in the custody of the inspectors of election or at a location designated by the inspectors until delivered to the inspectors at the meeting for the opening of the ballots and the tabulation of the vote. After the counting of the ballots and the certification of the election results by the inspectors of election, the ballots shall be transferred to the Association.
- 6.3 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.
- 6.4 After tabulation, election ballots shall be stored by the Association in a secure place for no less than one year after the date of the election. In the event of a recount or other challenge to the election process, the Association shall, upon written request, make the ballots available for inspection and review by members or their authorized representatives. Any recount shall be conducted in a manner that shall preserve the confidentiality of the vote.

7. **Tabulation of Votes; Quorum Requirement.**

- 7.1 All votes shall be counted and tabulated by the inspectors of election in public at a properly noticed open meeting of the members or of the Board, at which a quorum of members or a quorum of Board members, as the case may be, must be present.
- 7.2 The inspectors of election shall confirm that no more than one ballot was returned for each unit/lot.
- 7.3 Any candidate or other member of the Association may witness the

counting and tabulation of the votes.

- 7.4 In order for the vote for the election of directors to be valid, ballots must be returned by at least a quorum of the owners. If no quorum is achieved, no further attempt shall be made to achieve a quorum and the current Board of Directors shall remain in office.

8. **Announcement of Results.**

- 8.1 The results of the election shall be promptly reported to the Board of Directors 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.
- 8.2 Upon certification of the election results by the inspectors of election, the newly elected Board members shall be deemed to have taken office.
- 8.3 Within 15 days of the election, the Board shall publicize the results of the election in a communication directed to all members.

9. **Other Voting/Campaign Issues.**

- 9.1 There are 261 units in the Association, but owners whose voting rights have been suspended in accordance with the Association's governing documents after notice and hearing shall not be entitled to vote.
- 9.2 Cumulative voting is permitted if allowed by the Association's governing documents.
- 9.3 Association funds may not be used for campaign purposes in with any board election. The term campaign purposes is defined to include, without limitation, (1) expressly advocating the election or defeat of any candidate that is on the ballot; or (2) including the photograph or prominently featuring the name of a candidate on a communication from the Association (except the ballot and voting materials and equal access communications sent pursuant to the Section, above, entitled Campaigning).
- 9.4 The Association will not issue proxies. Therefore, so as to comply with the requirements for a secret ballot, any proxy prepared and/or used by an individual which directs the proxy holder how to vote, must include a separate detachable page for the direction, which can be detached and given to the proxy holder, and the proxy holder shall cast the member's vote by secret ballot. Any proxy presented must comply with the law in form and substance. The Inspector(s) of Election shall authenticate, validate and determine the effect of any proxy presented.
- 9.5 If the Board cancels and reschedules the election after votes have been cast for any reason, the Board must provide the membership with a written explanation for doing so.