

ENCANTO COMMUNITY ASSOCIATION ELECTION RULES AND PROCEDURES

Adopted June 2023

The procedure set forth herein is pursuant to California Civil Code section 5105 for use by Encanto Community Association ("Association") at any time the members of the Association are called upon to vote for the election of Directors, or on any other issue. All elections within the Association shall be governed by the following guidelines:

1. Election Campaigns

a. The Association shall ensure that, if any candidate or member advocating a point of view is provided access to Association media, newsletters, or internet websites during a campaign, for purposes that are reasonably related to that election, equal access shall be provided to all candidates and members advocating a point of view, including those not endorsed by the Board, for purposes that are reasonably related to the election. The Association shall not edit or redact any content from these communications, but it may include a statement specifying that the candidate or member, and not the Association, is responsible for that content.

b. There shall be equal access afforded to common area meeting spaces during a campaign, at no cost, to all candidates, including those who are not incumbents, and to all members advocating a point of view, including those not endorsed by the Board, for purposes reasonably related to the election.

c. A meet-the-candidates night may be held where they will have equal opportunity to introduce themselves to the members.

d. Association funds may not be used for campaign purposes in connection with any Board election.

e. Association funds 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:

i. Expressly advocating the election or defeat of any candidate that is on the election ballot.

ii. 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 thirty (30) days of an election, provided that this is not a campaign purpose if the communication is one requiring that equal access be provided to another candidate or advocate.

2. Candidate Qualifications

a. Candidates must be a member of the Association at the time of nomination.

b. Candidate must be a natural person, not a corporation or a trust. A corporation or trust may be represented by the appointment of a natural person.

c. Candidates for election to the Board of Directors shall be disqualified for any of the following reasons:

- i. If a member for less than 1 year at the time of nomination.
- ii. If the Candidate discloses or the Association becomes aware of a past criminal conviction that either prevents the purchase of fidelity bond coverage or terminates the existing fidelity bond coverage should the person be elected.
- iii. If the Candidate would be serving on the Board at the same time as someone else on title for their separate interest and the other person is properly nominated or an incumbent director.
- iv. For failing to pay regular and special assessments. For the purposes of this ground of possible disqualification, regular and special assessments do not include fines, fines renamed as assessments, collection charges, late charges or costs levied by a 3rd party. A Candidate may not be disqualified for failing to pay assessments if they have either paid any disputed regular or special assessment under protest, or have entered into a payment plan. In addition, a Candidate may not be disqualified for failing to pay assessments if person has not been provided opportunity to engage in the Association's Internal Dispute Resolution process.

d. Only votes for nominated candidates who have accepted the nomination prior to the tabulation of votes shall be counted.

3. Nomination Procedures

a. Candidate statement solicitation notices will be sent to the membership and shall include a deadline for receipt of those statements.

b. Statements received must be no more 500 words. Any statement longer than 500 words may be truncated following the 500th word.

c. Any candidate nominated by another person will be contacted to confirm his or her consent to run for election to the Board.

d. Completed statements received by the deadline will be forwarded to the Inspector of Elections for review at which time the Inspector of Elections will determine whether the candidate meets the qualifications for candidacy as set forth above.

e. Qualified candidates will then be included on the Candidate Registration list and the ballot that is mailed to the membership.

f. Completed candidate statements that are received by the deadline may be re-typed and included with the ballot that is mailed to the membership. Incumbents may be identified by an asterisk on the ballot mailed to the membership.

g. Self-nominations can occur through the use of the returned candidate statement.

Nominations will close no later than sixty-one (61) days prior to the scheduled election,

and the Association cannot accept any additional nominations after the close of nominations. Nominations from the floor are permitted if permitted in the Bylaws.

4. Election Process

a. The number of directors who are scheduled to be elected and their respective terms shall be determined in accordance with the Association's governing documents and stated in the solicitation materials for the meeting.

b. If more than one party is listed on title to a separate interest, only one Owner may submit his or her signed envelope to vote.

c. The day before the day that the ballots are mailed to the membership shall be the record date for voting.

d. The election shall be conducted annually within sixty (60) days of the anniversary month of the first annual election.

e. Owners may vote one time for each open position. For example, if there are two (2) open positions, an Owner would get two (2) votes.

5. Inspectors of Election

a. Inspector(s) of election will be appointed annually by the Board at a Board meeting held prior to the distribution of election materials and shall serve as the Inspector of Elections for all elections until a new Inspector of Elections is Appointed by the Board.

b. If there is an election or vote between annual elections of the Board, the Board may retain the Inspector(s) from the last meeting, or the Board has the authority to appoint different Inspector(s) at the Board's discretion.

c. The Board may remove and replace any Inspector prior to the tabulation of votes for any reason.

d. There shall be one (1) or three (3) Inspectors for any election. If there are three (3) Inspectors, the decision or act of a majority shall be effective in all respects as the decision or act of all.

e. Inspector(s) may designate others, who are not candidates or the relations of a candidate, as assistants to facilitate the ballot counting process. Assistants will work under the direction of the Inspectors.

f. Inspector(s) shall be independent third parties who are not currently employed by or under contract to the Association for any compensable services or a member of the Association. The Board may retain a CPA or other professional of choice who is not otherwise under contract to serve as an Inspector at an additional expense to the Association.

g. Inspector(s) or their designated assistants cannot be a member of or candidate for the Board and cannot be related to a member of or a candidate for the Board.

h. Inspector(s) determine the number of members entitled to vote and the voting power of each.

i. Inspector(s) determine the authenticity, validity, and effect of proxies, if any.

j. The Inspector of Elections shall deliver or cause to be delivered within thirty (30) days of an election the ballots and the current version of the Association's election Rules. Ballots shall be delivered via Individual Delivery pursuant to Civil Code section 4040. The current Association Election Rules shall be delivered either via Individual Delivery via Civil Code section 4040 or by posting the election rules to a website.

k. Unless the Inspector(s) designate a different location to receive ballots, the location to receive ballots will be the Association's management company's business office address.

l. Inspector(s) hear and determine all challenges and questions in any way arising out of or in connection with the right to vote and the Inspectors' decision.

m. All accounting and tabulations will be done in an open setting to allow members to watch and listen. Members who are not inspectors cannot participate in such discussions.

n. Inspector(s) count and tabulate all votes. All votes shall be counted and tabulated by the inspector(s) in public at a duly noticed Board or member meeting.

o. Inspector(s) determine when the polls shall open and close.

p. Inspector(s) determine and announce the results of the election.

q. Inspector(s) report the results of the election promptly to the Board, and the results are to be recorded in the next regular session Board meeting minutes.

r. Inspector(s) perform any acts as may be proper to conduct the election with fairness to all members in accordance with the Governing Documents.

s. Inspector(s) perform all duties impartially, in good faith, to the best of his or her ability, and as expeditiously as is practical.

6. Ballot Rules

a. Each ballot shall contain the following:

i. In an election of directors, each candidate's name listed alphabetically or as drawn by lot.

ii. The identification of any other matter that is the subject of a pending member vote.

iii. A statement of the required quorum.

iv. A statement that ballots must be received by mail no later than 5:00 p.m. on the business day prior to the day of the scheduled election.

Notwithstanding the foregoing, Inspector(s), in their discretion, may accept ballots up to the time that counting of the ballots begins. Failure to include any of the above shall not invalidate the ballot.

b. Once a ballot is received, it is deemed irrevocable, even if it is still in an unopened envelope.

c. If a member loses his or her ballot, a new one can be obtained from the inspector(s) or from the Association's management company prior to the meeting. However, if a ballot is already on file from that Separate Interest, then no new ballot will be given.

d. A member, who signs or otherwise marks his or her ballot with an identifying mark, waives his or her rights to secrecy. The Association is not responsible for redacting personal information that is added to the ballots by a member.

e. Unmarked ballots may be counted toward quorum purposes only.

f. The Inspector of Elections shall be prohibited from denying a ballot to a member for any reason other than not being a member at the time ballots are distributed. In addition, the Inspector of Elections shall be prohibited from denying a ballot to a person with a general power of attorney for a member. The ballot of a person with a general power of attorney for a member shall be counted if returned timely.

7. Tabulation Rules

a. Once received by the Association, the sealed ballots shall be in the custody of the inspector(s) or at a location designated by the inspector(s) at all times.

b. Any candidate or other member of the Association may witness the counting and tabulation of the votes. members, who are not inspectors, must remain at least five (5) feet away from the counting area.

c. Inspector(s) can cause the removal of any observer who interferes with or disrupts the counting or tabulation process.

d. Any election that results in a tie shall be determined by the flipping of a coin or drawing of straws.

8. Post-Election Rules

a. In addition to recording the election results in the minutes of the next regular Board meeting, the Association shall keep annual meeting minutes that reflect the results of the election.

b. The Board shall publicize the tabulated results of the election in a communication directed to all members within fifteen (15) days of a successful (quorum-achieved) election.

c. After the tabulation of the votes, all election materials will be transferred to the custody of the Association and maintained in a secure place for no less than one (1) year after the date of the election.