

PACIFIC BREEZE COMMUNITY ASSOCIATION ELECTION RULES

The following Election Rules are hereby adopted by the Pacific Breeze Community Association pursuant to California Civil Code sections 5100 – 5145 on May 14, 2020.

VOTES REQUIRING SECRET BALLOTS

The following votes shall be conducted by secret ballot under the procedures set forth below:

- The election or removal of directors;
- The approval of assessments when required by law;
- Amendments to the Association's governing documents;
- The grant of exclusive use of common area; and
- Any other votes required to be conducted by secret ballot pursuant to California law or the Association's governing documents.

A "secret ballot" is a ballot that does not identify the voter by name and/or address. All secret ballots, including those for the election of directors, must conform to applicable California law. In particular, to ensure the confidentiality of secret ballots, the following shall apply:

- A voter may not be identified by name or address on the ballot; and
- The ballot may not require the signature of the voter; provided, however, that the outer return envelope for secret ballots shall require the signature of the member.

Votes on all other matters may be conducted by any legally recognized method for conducting membership votes.

ELECTION TIME FRAMES

The board of directors shall set the date for the counting of ballots for each annual and special election that requires a secret written ballot. The board shall also set a deadline date for casting ballots. Both dates shall be set to allow sufficient time to accomplish the following within the specified time frames:

- Approximately one hundred twenty (120) days before the date set for the counting of ballots, provide general notice to the members of the procedure and deadline for submitting a candidate nomination if directors are to be elected. The notice shall provide a minimum of thirty (30) days for submitting a nomination.
- At least sixty (60) days before the date set for the counting of ballots and at least thirty (30) days before the ballots are distributed, provide general notice to the members of all of the following:

1. 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;
 2. The date, time, and location of the meeting at which ballots will be counted;
 3. The list of candidates' names that will appear on the ballot if board members are to be elected.
- At least thirty (30) days before the ballots are distributed, provide members the opportunity to verify the accuracy of the information on the Association's voter and candidate lists and report any errors or omissions to the inspector or inspectors of election for correction;
 - At least thirty (30) days before the deadline for casting ballots, mail (by first-class mail) or deliver ballots and ballot materials to every Association member.

TERMS AND DEFINITIONS

As used herein, the term "general notice" means any of the following:

- (a) Individual notice by first-class mail or personal delivery;
- (b) Inclusion in a billing statement, newsletter, or other document that is delivered to the members in the regular course of business; or
- (c) Posting the printed document in a prominent location that is accessible to all members if the location has been designated by the board of directors for the posting of general notices in the Association's annual policy statement.

Any member may request that any of the foregoing notices be delivered to the member by individual delivery. As used herein, the term "individual delivery" means either of the following:

1. First-class mail, postage prepaid, registered or certified mail, express mail, or overnight delivery by an express service carrier. The document shall be addressed to the recipient at the address last shown on the books of the Association.
2. Email, facsimile, or other electronic means if the member has consented in writing, or by email, to that method of delivery. The consent may be revoked in writing or by email by the member.

CANDIDATE NOMINATIONS

Subject to the Causes for Disqualification set forth below, any member of the Association may be nominated as a candidate for election to the board of directors. Members may nominate themselves as candidates for election to the board of directors. Nominations must be submitted on or before the deadline set for candidate nominations to be received by the Association for the

name of the candidate to appear on the ballot. Write-in votes and nominations from the floor shall be permitted for candidates whose names do not appear on the ballot.

CAUSES FOR DISQUALIFICATION

The following are causes for disqualification of any candidate for election to the board of directors:

- The candidate is not a member of the Association at the time of the nomination. If title to a Lot 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 for purposes of nomination as a candidate to the board of directors;
- The candidate has been a member of the Association for less than one (1) year;
- The candidate, if elected, would be serving on the board at the same time as another person who holds joint ownership of the same Lot and the other person is either properly nominated for the current election or is an incumbent director;
- The candidate discloses, or the Association is aware of or becomes aware of, a past criminal conviction that would, if the person was elected, either prevent the Association from purchasing the fidelity bond coverage required by law or terminate the Association's existing fidelity bond coverage; or
- The candidate is not current in the payment of their regular or special assessments. The Association may not disqualify a candidate for nonpayment of fines, fines renamed as assessments, collection charges, or costs levied by a third party. The person shall not be disqualified for failure to be current in the payment of regular or special assessments if either of the following circumstances is true:
 1. The person has paid the regular or special assessment under protest pursuant to California Civil Code section 5658; or
 2. The person has entered into a payment plan pursuant to California Civil Code section 5665.

Sitting directors are subject to the same requirement of remaining current in the payment of their regular and special assessments. Sitting directors who fail to remain current in the payment of their regular and special assessments are subject to removal from the board of directors after notice and hearing as required by California law.

Notwithstanding the foregoing, the Association shall not disqualify a person from nomination if the person has not been provided the opportunity to engage in internal dispute resolution pursuant to California Civil Code sections 5900 – 5920.

CANDIDATE ACCESS TO ASSOCIATION MEDIA

In any election campaign, any candidate or member advocating a point of view is to be provided access to association media, newsletters, or internet website during such campaign, for purposes that are reasonably related to that election. Equal access to such media shall be provided to all candidates and members, including those not endorsed by the board. The Association shall 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 the content of such statement.

EQUAL ACCESS TO COMMON AREA

All candidates and members shall have equal access to the common area meeting space, at no cost, including those who are not incumbents and those not endorsed by the board, who are advocating points of view different from those of the board (or others), but for purposes reasonably related to the election.

CAMPAIGN FUNDING

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. For the purposes of this section “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 or (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 which requires that equal access be provided to another candidate or advocate.

PROPOSED AMENDMENTS TO GOVERNING DOCUMENTS

In an election to approve an amendment to the Association’s governing documents, the text of the proposed amendment shall be delivered to the members with the ballot.

VOTER/CANDIDATE LIST AND QUALIFICATIONS

The Association shall maintain both a voter list and a candidate list which shall include the name, voting power, and either the physical address of the voter’s Lot, 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 Lot or if only the parcel number is used. The Association shall permit members to verify the accuracy of their individual information on both lists at least thirty (30) days before the ballots are distributed. The Association or member shall report any errors or omissions to either list to the inspector or inspectors of election who shall make the corrections with two (2) business days.

VOTING RIGHTS

The members are entitled to cast one (1) ballot per election for each Lot owned. There shall be no split or fractional balloting with respect to any single Lot. If more than one (1) ballot is cast on behalf of a Lot in any election, the inspector(s) of election shall disqualify all ballots cast on behalf of such Lot. The Association may not deny a ballot to a member for any reason other than for not being a member of the Association at the time when ballots are distributed. The Association may not deny a ballot to a person holding a general power of attorney for a member and shall count any ballot returned by the person holding a general power of attorney as long as the ballot is returned in a timely manner. Proxy voting shall be allowed. For purposes of these rules, the following rules regarding proxies shall apply:

“Proxy” means a written authorization signed by a member or the authorized representative of a member that gives another member or members the power to vote on behalf of that member.

“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.

Any proxy issued for an election that directs the manner in which the proxyholder is to cast the vote shall be set forth on a separate page of the proxy that can be detached and given to the proxyholder to retain. The proxyholder shall cast the member’s vote by secret ballot. The proxy may be revoked by the member prior to the receipt of the ballot by the inspector(s) of election.

Proxies shall not be construed or used in lieu of a ballot. The Association shall not be required to prepare or distribute proxies to the members.

INSPECTOR(S) OF ELECTION

The board of directors shall appoint one (1) or three (3) independent third-party inspector(s) of election in sufficient time to allow such inspector(s) to perform the duties outlined below. 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 director or a candidate for director or be related to a director or 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.

If the board of directors selects a non-member of the Association as an inspector of election, the board may require such non-member to obtain errors and omissions insurance and provide proof of the same prior to the commencement of the inspector’s work. The errors and omissions insurance policy shall be in an amount not less than one million dollars (\$1,000,000) that indemnifies the Association and its directors from liability and provides that the Association is a named insured on the policy. The board may, in its discretion, compensate inspector(s) of election.

The inspector(s) of election shall do all of the following:

- Determine the number of memberships entitled to vote and the voting power of each;
- Determine the authenticity, validity, and effect of proxies, if any;
- Receive ballots;
- Hear and determine all challenges and questions in any way rising out of or in connection with the right to vote;
- Count and tabulate all votes;
- Determine when the polls shall close consistent with the Association's governing documents;
- Count and tabulate all votes; and
- Perform any acts as may be proper to conduct any election with fairness to all members in accordance with California law and the Association's governing documents.

At least thirty (30) days before each election, the inspector(s) of election shall deliver or cause to be delivered to each member both of the following documents:

- The ballot or ballots; and
- A copy of the Election Rules. Delivery of the Election Rules may be accomplished by either of the following methods:
 1. Posting of 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."
 2. Individual delivery.

The inspector(s) of election shall perform all duties impartially, in good faith, to the best of the inspector of elections 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 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.

BALLOTING PROCEDURE

Not less than thirty (30) days before the deadline set for voting, the Association shall prepare and cause to be delivered to each member a ballot and two (2) preaddressed envelopes with instructions on how to return ballots. Such package shall be sent by first-class mail or delivered by the Association to every member. In order to preserve the confidentiality of a voter may not be identified by name, address, or lot, parcel, 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, including all of the following:

(1) The ballot itself is not signed by the voter but is inserted into the 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/her name, address, and lot, parcel of unit number that entitles him/her to vote.

(2) 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 the delivery.

QUORUM REQUIREMENT

The quorum for all elections of the Association is at least fifty-one percent (51%) of the total voting power of the Association. In the absence of a quorum, a majority of the members present at a meeting, in person or by proxy, may adjourn the meeting to another time, but may not transact any other business. Adjournment for lack of a quorum shall be to a date not less than five (5) days and not more than thirty (30) days from the original meeting. Except as may otherwise be required by the Association's Declaration of Covenants, Conditions, and Restrictions (CC&R's), the quorum for such a meeting shall be at least twenty-five percent (25%) of the total voting power of the Association present in person, by secret ballot, or by proxy.

The Association has one hundred nineteen (119) residential Lots. Therefore, the initial quorum for elections of the Association is sixty-one (61) of the total voting power of the Association present in person, by secret ballot, or by proxy. At adjourned meetings, the quorum is thirty (30) of the total voting power of the Association present in person, by secret ballot, or by proxy.

CUMULATE VOTING

Cumulative voting shall be allowed in all elections of directors.

COUNTING AND TABULATING OF BALLOTS

All ballots shall be counted and tabulated by inspector(s) of elections, 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(s) of election or the designee of the inspector(s) of election 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(s) of election, it shall be irrevocable.

REPORTING RESULTS

The 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 fifteen (15) days of the election, the board shall give general notice of the results of the election in a communication directed to all members.

CUSTODY OF ELECTION MATERIALS

The sealed ballots, signed voter envelopes, voter list, proxies, and candidate registration list shall at all times shall be in the custody of the inspector(s) of elections or at a location designated by the inspector(s) of elections for one (1) year at which time custody shall be transferred to the Association. If there is a recount or other challenge to the election, the inspector(s) of election 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 shall preserve the confidentiality of the vote.

AMENDMENTS OF ELECTION RULES

These Election Rules may not be amended less than ninety (90) days prior to any Association election.

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