

500 East Del Mar Homeowners Association

Election Rules

Adopted _____, 2006

These Election Rules have been adopted by the Board of Directors of 500 East Del Mar Homeowners Association in compliance with its governing documents and California Civil Code Section 1363.03.

NOMINATIONS

1. **Elections Committee.** The Board shall annually appoint a Nominating Committee of three persons. The chairperson of the Committee shall be a member of the Board. The Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but at least as many nominations as there are vacancies to be filled.
2. **Nominations from the Floor.** Nominations may also be made from the floor at the annual members' meeting.

ANNUAL MEETING

3. **Annual Members Meetings.** There shall be an annual meeting of the members each year for the purpose of soliciting nominations for the Board of Directors, selecting an inspector or inspectors of election, and/or conducting any other business of the Association. Notice of the annual meeting shall specifically state:
 - A. That nominations for the Board shall be solicited at the annual meeting, and that no nominations will be accepted after close of nominations; and that
 - B. Inspector(s) of election will be selected at the annual meeting.
4. **No Quorum Required.** If no actions will be taken at the annual meeting other than accepting nominations, appointing an inspector of election, or taking other actions that do not require a vote of the members, then no quorum is required for the annual meeting.
5. **Nominations.** Nominations shall be solicited from the floor at the annual meeting as follows:

- A. **In Person.** Persons may nominate themselves or others either at the meeting or by mail or email delivered to the Board at least one business day before the annual meeting.
 - B. **Acceptance by Candidate.** A nomination will only be accepted if the candidate either is present at the meeting to accept his or her nomination, or has submitted to the Board in writing, prior to the meeting, a statement that he or she would accept a nomination.
 - C. **Close of Nominations.** Once it is apparent there are no more nominations to be made at that time, the meeting's chair will close nominations at the annual meeting, and no candidates will be added to the campaign after this time.
 - D. **Self-Nominations.** Individuals may nominate themselves for candidacy. Nominations do not need to be seconded.
 - E. **Qualified Candidates.** Nominations will only be accepted for individuals who are members of the Association, as per the Association's Bylaws.
6. **Declaration Without Balloting.** If, at the close of nominations, the number of candidates is less than or equal to the number of vacancies, at the annual members' meeting the Association may without further action declare the candidates to have been elected by acclamation. No inspector(s) of election will be appointed and no election ballots will be distributed to the owners.
7. **Board Meeting to Appoint Inspector of Election.** If the election is *not* decided by acclamation, then, immediately after adjournment of the annual members' meeting, the Board will open a special Board meeting to select either one or three independent third party(ies) to serve as inspectors of election. If desirable, the annual members' meeting may be reconvened immediately following this special Board meeting to discuss additional members' business.
- A. **Lead Inspector.** If three inspectors of election are selected, one of those three shall be assigned as the lead inspector responsible to collect ballots and oversee the ballot counting process.
 - B. **Qualifications.** The inspectors may not be Board members or candidates for election, or any of their relatives or co-residents. Inspectors may be members of the Association, Association contractors or employees such as a property manager, or any other disinterested party. A licensed accountant or a volunteer poll worker with the county registrar of voters may serve as the

inspector of election. If inspectors of election are chosen from the Association members or residents or their family members or friends, then three inspectors shall be appointed.

- C. **Assistants.** Inspectors of election may appoint or be assigned one or more assistants to aid in counting the ballots.
- D. **Duties.** The inspectors of election shall have the power and duty to:
 - (1) Determine the number of memberships entitled to vote and the voting power of each.
 - (2) Determine the authenticity, validity, and effect of any proxies.
 - (3) Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.
 - (4) Determine when the polls shall close.
 - (5) Determine the results of the election.
 - (6) Take any further actions necessary to conduct a fair vote that conforms with the governing Documents and applicable law.
- E. **Decisions.** If there are three inspectors of election, the vote of a majority of the inspectors shall be as effective as a unanimous vote.

CAMPAIGNS

- 8. **Candidate Communications.** The Board shall either:
 - A. Allow each candidate a limited amount of time, to be set by the Board, to make a candidate speech at the annual meeting during or following close of nominations, or
 - B. Allow each candidate to submit a one-page candidate statement to be included with the ballots to be distributed to the owners.
- 9. **Equal Access to Candidates.** No other access to the Association resources will be given by the Association to the candidates (i.e. space in the Association's newsletter or website, candidate statements included the Association mailings to the general

membership, etc.) unless requested by one or more candidates and approved by the Board at the annual members' meeting, so every other candidate will have a chance to participate. This access will only be given to candidates to introduce themselves as candidates and/or to advocate a point of view for purposes that are reasonably related to that election.

- A. **Content of Communications.** The Association will not edit or redact any content from these candidate communications, but it may include a statement specifying that the candidate or member, and not the Association, is responsible for that content.
- B. **Meeting Places.** During the campaign, any candidate and any member advocating a point of view may access the project's courtyard, at no cost, for purposes reasonably related to the election.

10. **Campaign Funds.**

- A. Association funds shall not be used for campaign purposes in connection with any Board election. By way of example, Association funds *cannot* be used to:
 - (1) Expressly advocate the election or defeat of any candidate, or
 - (2) Include the photograph or prominently feature the name of any candidate on a communication from the Association or its Board, excepting the ballot and ballot materials, within 30 days of an election.
- B. However, Association funds shall be used, if necessary, to provide equal access to another candidate or advocate as required under these Rules.

MEMBERSHIP VOTING RIGHTS

- 11. **Voting Qualifications.** All members whose voting privileges are not suspended as provided in the governing documents shall be entitled to vote on all matters submitted for a vote of the members, including the election of directors. There is one class of membership.
- 12. **Number of Votes.** Members are entitled to one (1) vote per Unit regardless of the number of record owners of the Unit. Each Unit is entitled to one (1) vote for each vacancy on the Board to be filled at the election.

13. **Cumulative Voting.** Cumulative voting shall be allowed if, at the annual meeting, a member gives notice of his or her intention to cumulate votes. If so, then in any year in which two or more directors are to be elected, members may place two or more votes for any one candidate. If no such notice is given at the annual meeting, then owners cannot place more than one vote for any one candidate.

MEMBER VOTING BY SECRET BALLOT

14. **Election by Ballot.** If new directors have not been elected by acclamation at the annual meeting, then the election shall take place by secret ballots mailed by first-class mail or otherwise delivered to all of the members as soon after the annual meeting as is reasonably practical.
- A. **Return of Ballots.** The inspector of election shall designate a return mail address for the ballots. All ballots must be returned either in person or by mail to that address, or they may be personally delivered to the inspector of election.
- B. **Secret Balloting.** The ballots shall not include any place for owners to sign or to write their names, addresses, or other identification.
- C. **Ballots and Envelopes.** The Association shall deliver with the ballots two envelopes, as follows:
- (1) **Inner Envelope.** A blank envelope containing no information to identify the member using it. The member is to fill in the ballot, put the ballot in this blank inner envelope, seal the envelope, and place it in the outer envelope.
- (2) **Outer Envelope.** An envelope containing in the upper left-hand corner the following information, or a place for the member to fill in the following:
- Signature line;
 - Member's address; and
 - Member's Unit number.
- D. **Deadline for Voting.** The deadline for returning ballots—date and time—shall be set for at least 30 days after the ballots are distributed. The deadline shall coincide with the date and time of an open Board meeting at which the

votes are to be counted. Members can deliver their ballots to the inspector of election in person at the Board meeting. No ballots received after the deadline shall be accepted or counted.

15. **Receipt of Ballots.** The inspector of election shall have custody of all returned ballots, or they shall be kept at a location designated by the inspector, until they are counted. He or she may open the outer envelope and keep a record of which Units have returned ballots prior to the Board meeting where the ballots will be counted. However, the inspector may not open the second envelope containing the ballot until the counting starts.

PROXIES

16. **No Proxies.** No proxies shall be allowed for Board elections. Instead, each member can vote directly by mail.

TABULATING THE VOTE

17. **Counting of Ballots.** During the open Board meeting scheduled to count the ballots, after the time set for returning ballots has passed, the inspector(s) of election shall open the inner envelope and count the ballots, in a public location where the members can observe the counting process. To keep the ballots out of reach of the public, the inspector of election shall designate an area where members cannot enter, provided the members can see and hear the counting process.
18. **Quorum.** The election shall not be valid unless a quorum of ballots are returned, which shall be if the number of ballots received equals or exceeds 51% of the Units qualified to vote at the election.
19. **Lack of Quorum.** If a quorum of ballots are not received by the due date, the inspector of election will not tally the ballots. The Board shall send written notice to all members extending the deadline for return of the ballots to another date and time between five (5) and thirty (30) days after the original deadline. A second Board meeting shall be scheduled to coincide with this extended deadline. At this second Board meeting, the inspector of elections will count the ballots. The election shall be valid if the number of ballots received by this second Board meeting constitutes a reduced quorum of 25% of the total voting power of the Association, as set in the Association's CC&Rs and Bylaws for adjourned members' meetings.
20. **Failure to Achieve Quorum.** If a reduced quorum of ballots are *not* returned after the extended due date, the inspector of election shall fill out the attached "Official

Report of Inspectors of Election" form to the extent possible and promptly deliver the completed form to the Board along with the ballots received.

21. **Determination of Results.** Those persons receiving the largest number of votes shall be elected to the Board. Any ties for the election of directors shall be determined by a coin toss.

POST-ELECTION

22. **Delivery of Results to Board.** The inspector of election shall fill out the attached "Official Report of Inspectors of Election" form to record the election results and shall attach to the back of the form any voided ballots, which shall be marked "Void" along with an explanation of the reason why the ballot was found to be invalid. Promptly following the count, the inspector of election shall deliver the completed form to the Board along with the ballots.
23. **Announcement of Results.** The results shall be recorded in the minutes of the current Board meeting. In addition, the Board shall distribute to the members notice of the vote results within 15 days after the votes have been counted. The members shall also be allowed to inspect the "Official Report of Inspectors of Election."
24. **Storage and Access to Ballots.** The ballots shall be stored by the Association for at least one year after the vote. During that time frame, in the event of a recount or other challenge to the voting process, the Board shall, on receipt of a written request by a member, make the ballots available for inspection and review by the members or their authorized representatives. Any recount shall be conducted in a manner that shall preserve the confidentiality of the vote.

500 East Del Mar Homeowners Association
Official Report of Inspectors of Elections
(Corporations Code §7614)

The undersigned, the Inspectors of Election duly appointed at the annual members' meeting of 500 East Del Mar Homeowners Association, held on _____, 200____, report as follows:

1. The number of members whose voting rights have not been suspended and who are entitled to vote was _____.
2. Close of polls coincided with an open meeting of the Association's Board of Directors held on _____, 200____. By close of polls, the Inspectors of Election received _____ ballots from the members, representing _____ percent (____%) of the total number of votes, which constituted a quorum of the members.
3. We received and tabulated the votes of the members at the open Board meeting.
4. The following persons received the number of votes for election to the Board of Directors as listed opposite their names:

<u>NAME</u>	<u>NO. OF VOTES</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

5. The following persons were duly elected as Directors of the corporation at the Meeting.

<u>NAME</u>	<u>NO. OF VOTES</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

6. The proxies and ballots not counted are attached with the reason indicated on them.

We hereby affirm that we performed our duties as Inspectors in good faith, to the best of our abilities and as expeditiously as possible, and that the count and this Report are accurate.

Dated: _____, 200__.

Print Name: _____

Print Name: _____

Print Name: _____

**500 EAST DEL MAR HOMEOWNERS ASSOCIATION
NOTICE OF ANNUAL MEMBERS MEETING**

TO ALL HOMEOWNERS:

PLEASE TAKE NOTICE that 500 East Del Mar Homeowners Association will hold its annual meeting of the homeowners on:

Date: _____, 200__
Time: _____ p.m.
Location: 500 E. Del Mar Courtyard

The purpose of the meeting is to select an inspector of election and to take nominations for the Board. Due to recent changes in California law, ***the Board election cannot take place at the meeting.*** Instead, mail-in ballots must be distributed to the owners. These ballots will be distributed to all the owners after the annual meeting.

Since the members will not vote for the election of directors or on any other matter at the annual meeting, a quorum is not needed. The inspector of election will be appointed and nominations will take place at this meeting regardless of how many owners are present. ***Nominations will be closed at the annual meeting, and no one may be added to the candidates after the meeting.*** Please be sure to attend this meeting.

If you cannot attend but would be willing to serve on the Board, please submit to the Board a note stating that you would accept candidacy if nominated at the meeting.

500 East Del Mar Homeowners Association

Dated: _____, 2006

By: _____
Title: _____

500 EAST DEL MAR HOMEOWNERS ASSOCIATION

Ballot for Election of Directors

INSTRUCTIONS: After voting, place this ballot in the *blank* envelope provided. Do not write anything on the envelope. Seal it and put it inside the *return* envelope with the pre-printed return address. Sign the return envelope on the signature line in the upper left-hand corner and make sure your address and unit number are correctly listed on the envelope.

Return ballot to: Mail or hand deliver to the address on pre-printed envelope
or
Bring ballot to Board meeting where votes will be counted.
Date: _____ Time: _____
Location: _____

Deadline: _____ : _____ p.m. on _____ day, _____, 2006.
Ballots received after this time will not be counted.

Voting Instructions – Cumulative Voting

There are five positions on the Board to be filled. You may give any one candidate any number of votes up to five votes, as long you place no more than five votes, total, for all candidates. The five candidates with the most votes will be elected to the Board of Directors.

There are no write-in candidates. Do not vote for anyone not listed below.

No. of Votes	Candidate	Votes	Candidate
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

* - Incumbent

500 EAST DEL MAR HOMEOWNERS ASSOCIATION

Form Envelope for Secret Ballot

Outer Envelope:

Name (printed): _____

Address: _____

Unit No.: _____

Signature: _____

500 East Del Mar Homeowners Association
[Mailing Address]

Unit numbers are taken from the legal description found in the owners' deeds. The Association's homes are designated as Units 1 through 36.