

HARMONY COMMUNITY ASSOCIATION 2021

ELECTION RULES

In connection with (i) the election of directors (“Directors”) to the Board of Directors (the “Board”), (ii) a vote regarding an amendment to Harmony Community Association’s, (the “Association”) governing documents (the “Governing Documents”) except for operating rules or election rules, (iii) a vote regarding assessments legally requiring a vote, or (iv) when statutorily necessary, approval of a grant of exclusive use common area property to a member of the Association (“Member”), the following rules and procedures shall apply:

I. INSPECTOR(S) OF ELECTIONS

(a) Prior to the mailing of secret ballots for any vote pursuant to this Section, the Board shall appoint either one or three independent third parties to serve as inspector(s) of elections for such vote. The Board of Directors may hire an outside third party to act as an inspector of election. An “independent third party” includes, but is not limited to:

- (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
- (iv) a Member of the Association, provided, that such Member is not a Member of the Board, nor a candidate for the Board, nor related to a Member of the Board or a candidate for the Board.

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. However, the association may agree to have its retained property management serve as ballot collector as part of the election process.

(b) Prior to the ballots being mailed to the members, the inspector(s) of elections shall designate the location to which the ballots shall be addressed and returned.

(c) At least thirty (30) days prior to an election, the inspector(s) of elections shall deliver to each Member both of the following documents:

- (i) The ballot(s) in accordance with Section VIII of these Election Rules.
- (ii) A copy of these Election Rules, delivery of which may be accomplished by either:

(A) 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:"

(B) Individual delivery as defined in applicable provisions of the Civil Code.

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

(i) Determine the number of memberships entitled to vote and the voting power of each;

(ii) Determine the authenticity, validity, and effect of proxies, if permitted, and if any are received;

(iii) Receive ballots;

(iv) Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote;

(v) Count and tabulate all votes;

(vi) Determine when the polls shall close;

(vii) Determine the results of the election; and

(viii) Perform any acts as may be proper to conduct the election with fairness to all members in accordance with Sections 5100, et seq. of the Civil Code, the Corporations Code, these Election Rules, and all applicable rules of the Association regarding the conduct of the election.

(e) Inspector(s) of elections may appoint and oversee additional persons to verify signatures and to count and tabulate votes as the inspector(s) deem appropriate, provided that the persons are independent third parties.

(f) An inspector of elections shall perform his or her 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.

(g) If there are three inspectors of elections, the decision or act of a majority shall be effective in all respects as the decision or act of all.

(h) Any report made by the inspector(s) of elections is prima facie evidence of the facts stated in the report.

(i) The Board may remove and replace any inspector of elections prior to the counting and tabulation of ballots if an inspector of elections resigns or if the Board reasonably determines that such inspector of elections will be unable to perform his or her duties impartially and in good faith.

II. NOMINATION OF CANDIDATES TO BOARD OF DIRECTORS

(a) At least ninety (90) days prior to the date of the meeting at which the ballots for any election of Directors are to be counted, the Nominating Committee (if any) or the Board shall meet to commence accepting formal nominations for election to the Board and send out notification and instructions for nominating members for election to the Board. In addition, the Nominating Committee (if any) or Board shall identify, review the qualifications of, and recruit candidates for the Board.

(b) Candidates for the Board must be Members of the Association.

(c) Any Member may nominate himself or herself for election to the Board.

(d) Only one individual owner from each Unit may serve on the Board at the same time or be nominated for the same election.

(e) The Nominating Committee (if any) or the Board shall contact any candidate that is nominated by another person to obtain the consent of such candidate prior to putting his or her name on the ballot for election to the Board.

(f) All nominees who meet the qualifications to be a candidate for the Board shall be listed on the ballot.

III. QUALIFICATION OF DIRECTORS

(a) All Members are qualified for nominating as a Candidate unless any of the following are applicable:

(i) The Member has been convicted of a crime that would either prevent the Association from purchasing the fidelity bond coverage required by Section 5806 of the Civil Code (or any successive provisions) should the person be elected or terminate the Association's existing fidelity bond coverage should the person be elected.

(ii) The Member is not current in the payment of regular and special assessments. However, the Association may not disqualify a Member for nonpayment of fines, fines renamed as assessments, collection charges, late charges, or costs levied by a third party.

(iii) Notwithstanding subsection (ii), the Association shall not disqualify a Member for failure to be current in payment of regular or special assessments if any of the following are true:

(A) The Member has paid the regular assessment or special assessment under protest as permitted in the Civil Code.

(B) The Member has entered into a payment plan pursuant to applicable provisions of the Civil Code.

(iv) Any Member who has been a Member for less than one year.

(v) The Member is not a Member at the time of nomination.

(b) No Member shall be disqualified for nomination as a candidate for the Board unless the Member has been provided the opportunity to engage in internal dispute resolution pursuant to Article 2 (commencing with Section 5900) of Chapter 10 of the Civil Code (or any successor statute).

(c) Notwithstanding subsection (a), in the case any Unit is owned by multiple individuals or entities, only one of the co-Owners shall be eligible to serve as a Director at a time.

IV. TERM OF OFFICE: DIRECTORS

The Association shall hold an election for each seat on the Board at the expiration of the corresponding Director's term.

V. CAMPAIGN REGULATIONS

(a) 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, the Association shall provide equal access 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 may include a statement specifying that the candidate or Member, and not the Association, is responsible for that content.

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

(c) Association funds may not be used for campaign purposes in connection with any Board election. Funds of the Association may 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 purposes of this Section, "campaign purposes" include, but are not limited to: (1) expressly advocating the election or defeat of any candidate that is on the Association election ballot; or (2) including the photograph or prominently featuring the name of any candidate on a communication from the Association or the Board (except for the ballot, ballot materials, or a communication that is legally required), within thirty (30) days of an

election. It is not a campaign purpose if the communication is one for which subsections (a) and (b) above require that equal access be provided to another candidate or advocate.

VI. QUALIFICATION FOR VOTING; NO CUMULATIVE VOTING NOR PROXIES; VOTING PERIOD

(a) All Owners shall be entitled to one vote for each Unit owned. When more than one person or entity owns a Unit the vote for such Unit shall be exercised as they determine among themselves, but in no event shall more than one vote be cast with respect to any Unit.

(b) The Association shall not take any of the following actions:

(i) Deny the provision of a ballot to a Member for any reason other than not being a Member to be counted if returned in a timely manner.

(ii) Deny the provision of a ballot to a person with general power of attorney for a Member.

(c) Cumulative voting is not permitted.

(d) Proxies are permitted.

(e) Subject to Section X(c), the voting period will begin upon the mailing of the ballots pursuant to Section VIII of these Rules and shall close at such time as determined by the inspector(s) of elections, which time shall be indicated on the voting instructions accompanying the ballot.

VII. PRE-BALLOTING REQUIREMENTS AND ELECTION MATERIALS

(a) The Association shall provide general notice of the procedure and deadline for submitting a nomination at least 30 days before any deadline for submitting a formal nomination. Said procedure and deadline shall be delivered by individual notice if requested by a Member.

(b) The Association shall provide general notice (or individual notice if requested by a Member) of all the following at least 30 days before ballots are distributed in accordance with these Election Rules:

(i) The date and time by which, and the physical address where, ballots are to be returned by mail or handed to the inspector(s) of elections.

(ii) The date, time, and location of the meeting at which the ballots will be counted.

(iii) The list of all candidates' names that will appear on the ballot.

(c) The Association shall retain, as association election materials, both a candidate list and a voter list. The voter list shall include 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 shall permit members to verify the accuracy of their individual information on both lists at least 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 who shall make the corrections within two business days.

VIII. SECRET BALLOT PROCEDURE

(a) Ballots and two preaddressed envelopes with instructions on how to return ballots shall be mailed by first-class mail or delivered by the Association to every member of the Association not less than thirty (30) days prior to the deadline for voting. 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) In order to preserve the confidentiality of the voter:

(i) Ballots must not identify the voter by name, address, or lot number;

(ii) Ballots must not require the signature of the voter; and

(iii) The ballot itself is to be inserted into a designated ballot envelope that is to be sealed. This envelope is inserted into a second mailing envelope that is to be sealed. In the upper left-hand corner of the second envelope, the voter shall sign and print his or her name, address, and address or Unit number that entitles him or her to vote. The second envelope is addressed to the inspector(s) of elections, c/o the Association.

(c) Members shall return their secret ballots by mail to the Association, to the Association's management company (if any) or by hand delivery to the meeting; provided, however, only those ballots that are delivered to the inspector(s) of elections, or to such location designated by the inspector(s) of elections, prior to the closing of polls, as determined by the inspector(s) of election, will be counted.

(d) A Member may request a receipt for delivery of his or her ballot.

(e) Once a secret ballot has been mailed or delivered, such ballot shall be irrevocable.

IX. COLLECTION, RECORDATION AND CUSTODY OF BALLOTS AND ASSOCIATION ELECTION MATERIALS

(a) No person, including a member of the Association or an employee of the Association's management company (if any), shall open or otherwise review any ballot prior to

the time and place at which the ballots are counted and tabulated unless such person is an inspector of election. The inspector(s) of election or the designee may verify the Member's information and signature on the outer envelope prior to the meeting at which the ballots are tabulated.

(b) The inspector(s) of election shall maintain a current list of Members of the Association entitled to vote, including associated addresses or Unit numbers. Upon receipt of the ballots, the inspector(s), or the custodian of the ballots designated by the inspector(s), shall record on such list that a ballot has been received for the applicable address or Unit number. In the event the inspector(s) of elections receive more than one ballot for the same address or Unit, the inspector(s) of elections shall determine which ballot is valid, if any, and therefore which ballot or ballots which are invalid.

(c) The inspector(s) of elections shall maintain custody of sealed ballots, signed voter envelopes, voter list, proxies (if permitted), and candidate registration list at all times prior to tabulation of a vote or designate that they be kept at a specific location until after the tabulation of the vote, and for at least one (1) year after the date of the election or until the final determination of any challenge to the election, whichever is later, at which time custody shall be transferred to the Association. In the event of a recount or other challenge to the election process, the inspector(s) 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.

X. TABULATION OF SECRET BALLOTS; QUORUM REQUIREMENT

(a) The inspector(s) of elections shall count and tabulate the ballots in public at a properly noticed (regular or special) open meeting of the Members or the Board.

(b) Any candidate or other Member of the Association may witness the counting and tabulation of the votes.

(c) In connection with any vote by written ballot, such vote shall be valid only when the number of votes cast equals or exceeds the quorum, if any, required to be present at a meeting authorizing the action. In the event ballots representing fewer than a quorum required to be present at a meeting authorizing the action are received at the end of the voting period (as such period is established pursuant to Section VIII of these Rules), the inspector(s) of elections shall be permitted to extend the voting period for a specified period of time not more than (30) days from the expiration of the original voting period, subject to the requirements, if any, of the Bylaws. In the event the inspector(s) of elections extends the voting period pursuant to this Section X(c), the Board shall adjourn the meeting at which the ballots were to be counted to a properly noticed meeting on the date upon which the extended voting period expires.

(d) The Association shall not fail or refuse to count the ballot of a person with general power of attorney for a Member if returned in a timely manner.

XII. ANNOUNCEMENT OF ELECTION RESULTS

(a) The results of any election shall be promptly reported to the Board, shall be recorded in the minutes of the next meeting of the Board and shall be available for review by members.

(b) The newly-elected Board shall be deemed to have taken office upon certification of the election results by the inspector(s) of elections.

(c) No later than fifteen (15) days after the election, the Board shall give general notice pursuant to Civil Code Section 4045 (or its successor statute) of the tabulated results of the election.

Approved by the Board of Directors on _____, 2021

Dated: _____