

# CHAPMAN VILLAS HOMEOWNERS ASSOCIATION, INC.

A California Non-Profit Mutual Benefit Corporation

## VOTING AND ELECTION RULES AND PROCEDURES

(Civil Code Section 5105)

Effective February 24, 2022

### 1. Introduction

- a. The Board of Directors ("Board") consists of three (3) Directors. Directors are elected for one-year terms. (By-Laws of Chapman Villas Homeowners Association, Inc. ("Bylaws") at Article V, Sections 5.2 and 5.3).
- b. The Association has 30 Units.
- c. Cumulative voting is permitted. (Bylaws, at Article V, Section 5.4).
- d. Except as otherwise provided in the Articles, the Declaration or Bylaws, a quorum at any Membership meeting consists of the presence in person, proxy or Secret Ballot, of Members entitled to cast a majority of the voting power of the Association. (Bylaws, at Article IV, Section 4.7).
- e. If quorum is not obtained, a majority of the Members present in person or by valid proxy may adjourn the Meeting but may take no other action. (Bylaws, at Article IV, Section 4.7; Corporations Code Section 7512). The Meeting may be adjourned for not less than 48 hours nor more than 30 days. (Bylaws, at Article IV, Section 4.7).
- f. *Opportunity for Internal Dispute Resolution ("IDR")*: Any member disputing or challenging any aspect or application of these rules, including, without limitation, the member's qualifications to be nominated as a candidate for the Board, has the opportunity to engage in IDR with the Association pursuant the procedure provided at Civil Code Section 5915.

### 2. Membership Meetings, Annual Meeting, Election of Directors and Membership Votes

- a. The Association will hold an Annual Meeting of the Membership to elect Directors and to conduct Association business which is properly brought before the Members and/or on the agenda. ("Annual Meeting" or "Election").
- b. These Election and Voting Rules ("Rules"): (1) prohibit the denial of a Ballot to a Member for any reason other than not being a Member at the time when Ballots are distributed; (2) prohibit the denial of a Ballot to a person with general power

of attorney for a Member; and (3) require the Ballot of a person with general power of attorney for a Member to be counted if returned in a timely manner.

- c. Persons who attend a Meeting may be asked to provide photo identification or other documents to prove that they are Owners of a Unit and are entitled to vote at a Meeting, to show they are a designated proxyholder, or to show they hold a general power of attorney for an Owner of a Unit.
- d. Secret Ballots: The Association will utilize a secret ballot ("Secret Ballot" or "Ballot") process, which is required by California law, as described below, for:
  - i. A vote of the Membership regarding assessments;
  - ii. Election or removal of Members of the Association's Board of Directors;
  - iii. Amendments to the Governing Documents;
  - iv. Grant of exclusive-use of common area property pursuant to Civil Code Section 4600;
  - v. Any other Membership votes which may be required or allowed by law.
- e. The Association's Inspector(s) of Election will send out a Notice of Annual Meeting/Instructions for Voting which will advise all Members of times when registration will begin and when the Meeting will be called to order, as well as when the polls will open. The Notice will also state the dates and times when the Members and candidates may attend the Annual Meeting to witness the Inspector(s) of Elections' registration, review, count and tabulation of the Ballots for the Annual Meeting.
- f. Other meetings of the Members ("Special Meetings") may be noticed and held by the Association to vote on matters which are proper for Member vote. The Board may also determine not to notice or hold Membership Meetings for votes on matters, except for Membership Meetings required for the removal or election of Directors and Annual Meetings, and may conduct the vote by Secret Ballot process and have the Secret Ballots counted and tabulated at a regular duly noticed open Board meeting.
- g. The Directors must be elected by Secret Ballot or by acclamation if permitted by Paragraph 7 below and cannot be elected by voice vote or show of hands at the Annual or other Special Meeting. At Annual Meetings or other Special Meetings where Directors will be elected, the Secret Ballot votes for Directors will be counted and tallied, and the Report of the Inspector(s) of Election will provide the tabulated results of the vote and election.
- h. Other business at the Annual or other Special Meetings, such as approval of minutes, motions to close registration, motions to cease balloting, motions to

adjourn and other parliamentary or meeting procedures required by a recognized system of parliamentary procedure may be conducted by a show of hands, voice vote or other recognized method, including a roll call vote.

- i. All Membership Meetings and votes will be conducted in accordance with the Association's Governing Documents and California Corporations and Civil Codes, as appropriate.
- j. Members will have one vote per Unit owned. When more than one person holds an ownership interest of record in any Unit, all such persons shall be Members of the Association, although in no event shall more than one vote be cast with respect to any Unit. In elections of Directors, this one vote will be multiplied by the number of Director positions up for election (e.g., when three (3) Director positions are available for election, then each Unit will receive three (3) votes to cast.)
- k. For all elections of Directors, cumulative voting shall be used as permitted by the Association's Bylaws, at Article V, Section 5.4. Cumulative voting means that a Member may cast all votes for one candidate or divide up the votes among the candidates. No fractional votes are permitted. Members do not have to cast all of their votes. The number of votes cannot exceed the number of votes allowed or the Ballot will not be counted, except for quorum purposes.
- l. The Association will create and retain a candidate registration list and a voter list.
  - i. Voter list: the voter list shall include the name, voting power, and either the physical address of the Member's Unit, 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 Unit or if only the parcel number is used.
  - ii. Candidate registration list: a candidate registration list shall be prepared with the names of candidates that will appear on the Secret Ballot and who are known at the time the candidate registration list is prepared. The candidates' addresses will also be included in the list, but will not be printed on the Secret Ballot. Other candidates may later announce their intention to be a candidate as provided in the Governing Documents and these Rules, including nomination from the floor of the Meeting/Election.
  - iii. The Association shall permit Members to verify the accuracy of their individual information on the candidate registration list and voter list at least thirty (30) days before Ballots are distributed. The Association or Member shall report any error or omissions to the Inspector(s) of Election who shall make any correction within two (2) business days.

### **3. Candidate Qualifications and Nominations.**

- a. The following qualifications apply to nominees for the Board of Directors:

- i. The Association shall disqualify a person from nomination as a candidate for the Board of Directors for not being a Member of the Association at the time of the nomination.
  - ii. If title to a Unit 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, in writing, to be a Member for purposes of being a candidate for election to the Board.
  - iii. All nominees for a Board seat must be current in the payment of regular and special assessments. Nominees may not be disqualified for nonpayment of fines, fines renamed as assessments, collection charges, or costs levied by a third party. Further, a nominee may not be disqualified if they have paid the regular or special assessment under protest; if they have entered into and are in compliance with a payment plan; or if they have not been provided the opportunity to engage in internal dispute resolution ("IDR").
  - iv. All Directors must be current in the payment of regular and special assessments. Directors may not be disqualified for nonpayment of fines, fines renamed as assessments, collection charges, or costs levied by a third party. Further, a Director may not be disqualified if they have paid the regular or special assessment under protest pursuant to Civil Code Section 5658; if they have entered into and are in compliance with a payment plan pursuant to Civil Code Section 5665; or if they have not been provided the opportunity to engage in IDR pursuant to Section 5900 *et seq.*
  - v. A nominee is disqualified if that person has been a Member of the Association for less than one year.
  - vi. A person is disqualified from nomination if the person, if elected, would be serving on the Board at the same time as another person who holds a joint ownership interest in the same Unit as the person and the other person is either properly nominated for the current election or an incumbent Director.
  - vii. A person is disqualified if that person discloses, or the Association is aware 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 Civil Code Section 5806 or terminate the Association's existing fidelity bond coverage.
- b. The Association shall provide general notice of the procedure and deadline for submitting a nomination at least thirty (30) days before the deadline for submitting a nomination.

- c. The Association will send out to all Members a request-for-candidates form, seeking candidate nominations for the Board. All forms must be completed by the candidate and must be received by the Association by the deadline stated in the form in order for a candidate's name to appear on the Notice of Annual Meeting and the Ballot.
- d. If the fully completed form is not received by the Association by the deadline date, a candidate may still be nominated by himself/herself or by someone else from the floor of the Annual Meeting, under the procedures described in these Election Rules.
- e. The candidacy form will include the opportunity for each candidate to submit a 500 word maximum written statement which is reasonably related to the election, including advocating a point of view. Candidate statements will be included with the Association's mailing of the Notice and Ballot materials. The Association will not edit or redact these statements, but may include a statement specifying that the candidate is responsible for the content.
- f. The Association's Secretary will review the candidate nomination forms, and if the person is not qualified to be a nominee, and subject to the requirement to first provide an opportunity to engage in internal dispute resolution that person's name will not be included on the candidate registration list or the Secret Ballot that is mailed to the Membership. The Secretary may delegate this certification to management or to another Director at any time, including whenever the Secretary may be a candidate for a Director position.
- g. Meet the Candidates Opportunity - The Association may hold an informal gathering not less than 15 days prior to the Annual Meeting. All candidates may participate, including those who did not submit a candidate's form, but who have advised the Association of their intention to be nominated from the floor of the Annual Meeting. Each candidate may give an oral statement of his/her qualifications of no longer than five (5) minutes per candidate, unless otherwise indicated in the Ballot materials. Questions may also be directed to any candidate by the Members present at the meeting. The candidates are not required to attend the Meet the Candidates event, to make a statement, or to answer questions but are encouraged to do so. No voting or other actions will take place at the Meet the Candidates event.

#### **4. Membership Meetings**

- a. The Association's Inspector(s) of Election will send or cause to be sent a Notice of Meeting/Instructions for Voting which will advise the Members of times when registration will begin and when the Meeting will be called to order, as well as when the polls will open. The Notice will also state the dates and times when the Members and candidates may attend the Meeting to witness the Inspector(s)' registration, review, count and tabulation of Ballots.

- b. The Association may notice and hold meetings of the Members to vote on matters which are proper for Member vote. The Board may also determine not to hold a Membership meeting for votes on matters, except for Membership Meetings required for the removal or election of Directors and Annual Meetings, and may conduct the vote by the Secret Ballot process and have the Secret Ballots counted and tabulated at a regular duly noticed open Board meeting.
- c. The Directors must be elected by Secret Ballot and cannot be elected by voice vote, show of hands or other means.
- d. Other business at the Membership Meetings, such as approval of minutes, motions to close registration, motions to cease balloting, motions to adjourn and other parliamentary or meeting procedures required by a recognized system of parliamentary procedure may be conducted by a show of hands, voice vote or other recognized method, including a roll call vote.
- e. All Membership Meetings and votes will be conducted in accordance with the Association's Governing Documents and Corporations and Civil Codes, as appropriate.

## **5. Association Election Materials**

- 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.
- b. *Candidate Registration List.* A candidate registration list shall be prepared with names of candidates that will appear on the Secret Ballot and who are known at the time the candidate registration list is prepared. The candidates' addresses will also be included in the list, but will not be printed on the Secret Ballot. Other candidates may later announce their intention to be a candidate as provided in the Governing Documents and these Rules, including nomination from the floor of the Meeting/Election.
- c. The Association shall permit Members to verify the accuracy of their individual information on the candidate registration list and voter list at least thirty (30) days before Ballots are distributed. The Association or Member shall report any error or omissions to either list to the Inspector(s) of Election who shall make any correction within two (2) business days.

## **6. Inspector(s) of Elections**

- a. One (1) or three (3) independent third party inspector(s) of elections ("Inspector(s)") will be selected and appointed by the Board of Directors.

For purposes of this section, an independent third party includes the following:

- i. A volunteer poll worker working for the county registrar of voters;
  - ii. A Licensee of the California Board of Accountancy;
  - iii. A Notary Public;
  - iv. A Member of the Association who does not hold a position on the current Board of Directors, is not related to a Member of the current Board of Directors, is not a candidate for the forthcoming election and is not related to a candidate for the forthcoming election, for which such Member of the Association would serve as an Inspector; or
  - v. Such other persons as may be provided by California Law.
- b. The Board will not select as an Inspector a Member of the Board of Directors, a candidate for the Board of Directors, or a relative of a Member of the Board or of a candidate, or a person, business entity, or subdivision of a business entity currently employed by or under contract to the Association for any compensable services, other than serving as an Inspector. The Inspector(s) can be volunteers or be hired by the Association.
- c. The Board may determine to pay compensation to the professional non-Member third party Inspector(s), if any. If the Board determines to appoint and pay a professional non-Member independent third party to be Inspector(s), the Board will require the following terms to be met by the independent third party Inspector(s):
- i. A formal written contract for the Inspector(s) to be hired as independent contractor(s);
  - ii. The Inspector(s) will maintain insurance with at least \$1 million commercial general liability coverage, including completed operations coverage, and \$1 million Directors & Officers/Errors & Omissions coverage (naming the Association and its management company as additional insureds on all insurance policies);
  - iii. The Inspector(s), shall maintain the custody of the election envelopes and Secret Ballots or designate a location for their custody and storage for at least one (1) year at which time, custody shall be transferred to the Association's managing agent;
  - iv. The professional non-Member independent third party Inspector(s) shall indemnify Association if independent third party Inspector(s) is grossly negligent, or commits malicious and/or willful misconduct.

- d. If an Inspector is unwilling to, unable to, or does not perform his/her duties as stated in these Rules, or becomes ineligible to be an Inspector at any time after appointment under these Rules, the Board may remove that Inspector without notice, and may appoint another Inspector that meets the requirements set forth above to take his/her place.
- e. Inspector(s)' Duties:
  - i. Correct the voter list and candidate registration list.
  - ii. At least thirty (30) days before an election, deliver to each Member (or cause to be delivered) a Ballot or Ballots and a copy of these Rules. Delivery of these Rules may be accomplished by: posting these Rules to the Association's 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:"; or via individual delivery as specified at Civil Code Section 4040.
  - iii. Determine number of Memberships entitled to vote and the voting power of each.
  - iv. Determine the authenticity, validity, and effect of proxies, if any.
  - v. Receive Secret Ballots and proxies, if any.
  - vi. Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.
  - vii. Count and tabulate all votes.
  - viii. Determine when the polls shall close.
  - ix. Determine the results of the election or vote.
  - x. Perform any acts as may be proper to conduct the election with fairness to all Members, in accordance with California Law and these Rules.
  - xi. All duties must be performed in good faith, to the best of the Inspector(s)' ability, as expeditiously as practical, and in a manner that protects the interest of all Members.
  - xii. Prior to the mailing of the Secret Ballots by the Association, the Inspector(s) will determine the location where the sealed Secret Ballots will be mailed or delivered.
  - xiii. The Inspector(s) of Elections shall also determine where the Inspector(s) will maintain custody of the sealed Secret Ballots, signed voter envelopes,

the voter list, proxies, and the candidate registration list before and after the count and tabulation of the vote by the Inspector(s).

- f. The Inspector(s) may appoint and designate additional personnel to assist them in their duties, including registration, opening, counting and tabulating, but the Inspector(s) will oversee and be responsible for all actions of such designees. Any additional persons appointed to assist the Inspector(s) must meet the qualifications stated above for Inspectors. Only the Inspector(s) may sign the report of the Inspector(s) of election, but additional designees may be required to sign an oath regarding his/her/their duties.
- g. If there are three (3) Inspectors, the decision to act or make a decision must be by a majority of the Inspectors and is effective, in all respects, as the decision of all.
- h. The report of the Inspector(s) of the election shall be prepared for all votes, and once signed to certify the results of the vote, count or election, is prima facie evidence of the facts stated in the report.

## **7. Election by Acclamation**

Notwithstanding the secret balloting requirement in Paragraph 8 of these Voting and Election Rules and Procedures below, or any contrary provision in the governing documents, when, as of the deadline for submitting nominations, the number of qualified candidates is not more than the number of vacancies to be elected, as determined by the Inspector or Inspectors of the Election, the Association may, but is not required to, consider the qualified candidates elected by acclamation if all of the following conditions have been met:

(a) The Association has held a regular election for the Directors in the last three years. The three-year time period shall be calculated from the date ballots were due in the last full election to the start of voting for the proposed election.

(b) The Association provided individual notice of the election and the procedure for nominating candidates as follows:

(1) Initial notice at least 90 days before the deadline for submitting nominations provided for in subdivision (a) of Civil Code Section 5115. The initial notice shall include all of the following:

(A) The number of board positions that will be filled at the election.

(B) The deadline for submitting nominations.

(C) The manner in which nominations can be submitted.

(D) A statement informing members that if, at the close of the time period for making nominations, there are the same number or fewer qualified candidates as there are board positions to be filled, then the Board of Directors may, after voting to do so, seat the qualified candidates by acclamation without balloting.

(2) A reminder notice between 7 and 30 days before the deadline for submitting nominations provided for in subdivision (a) of Civil Code Section 5115. The reminder notice shall include all of the following:

(A) The number of board positions that will be filled at the election.

(B) The deadline for submitting nominations.

(C) The manner in which nominations can be submitted.

(D) A list of the names of all of the qualified candidates to fill the board positions as of the date of the reminder notice.

(E) A statement reminding members that if, at the close of the time period for making nominations, there are the same number or fewer qualified candidates as there are board positions to be filled, then the Board of Directors may, after voting to do so, seat the qualified candidates by acclamation without balloting. This statement is not required if, at the time the reminder notice will be delivered, the number of qualified candidates already exceeds the number of board positions to be filled.

(c)

(1) The Association provides, within seven business days of receiving a nomination, a written or electronic communication acknowledging the nomination to the member who submitted the nomination.

(2) The Association provides, within seven business days of receiving a nomination, a written or electronic communication to the nominee, indicating either of the following:

(A) The nominee is a qualified candidate for the board of directors.

(B) The nominee is not a qualified candidate for the Board of Directors, the basis for the disqualification, and the IDR meet and confer procedure, by which the nominee may appeal the disqualification.

(3) The Association may combine the written or electronic communication described in paragraphs (1) and (2) into a single written or electronic communication if the nominee and the nominator are the same person.

(d)

(1) The Association permits all candidates to run if nominated, except for nominees disqualified for running as allowed or required pursuant to Paragraph 3 above of these Voting and Election Rules and Procedures.

(2) Notwithstanding paragraph (1), the Association may disqualify a nominee if the person has served the maximum number of terms or sequential terms allowed by the Association, if any.

(e) The Association's Board of Directors votes to consider the qualified candidates elected by acclamation at a duly noticed open Board meeting for which the agenda item reflects the name of each qualified candidate that will be seated by acclamation if the item is approved.

## **8. Secret Ballot Procedures**

- a. For elections of directors and for recall elections, at least thirty (30) days before the Ballots are distributed, the Association shall provide general notice of the date and time by which, and the physical address where, Ballots are to be returned by mail or handed to the Inspector(s); the date, time and location of the meeting where the Ballots will be counted; and the list of candidates that will appear on the Ballot.
- b. At least thirty (30) days prior to the deadline for voting, the Secret Ballots will be mailed by first-class mail or delivered to every Member, along with two preaddressed envelopes ("Envelopes") and instructions on and deadlines for return of Ballots. The Annual Meeting date, other Membership Meeting date, or deadline date for other votes taken without a meeting will be considered the due date for completed Ballots to be received by the Association. A Notice of Meeting will also be sent which will include instructions on how to return Ballots.
- c. The Secret Ballot itself will not identify the voter by name, address, parcel number or Unit number.
- d. The Secret Ballot and Notice will contain the names of any candidates known to the Association at the time the Secret Ballot/Notice are mailed. If no candidates are known or if there are fewer candidates than the number of Directors to be elected and the Association is not electing Directors by acclamation pursuant to Paragraph 7 above of these Voting and Election Rules and Procedures, the Association will send out a Secret Ballot which has the names of the candidates known and/or blank lines for write-in candidates.
- e. Any write-in candidate must be nominated from the floor of the Annual Meeting or Special Meeting, by himself/herself or another person, or by written notice which is received by the Inspector(s) prior to the close of nominations, and must be present at the Annual Meeting or Special Meeting to accept the nomination or have sent written acceptance of the nomination to the Association which must be received by the Association by the call to order of the Meeting.

- f. The Secret Ballot itself is not signed by the voter but is inserted into an inner Ballot Envelope which is preaddressed to the address specified by the Inspector(s) (Envelope #1).
- g. The voter then seals Envelope #1 and inserts Envelope #1 into a second outer mailing envelope (Envelope #2) preaddressed to the address specified by the Inspector(s) which is then also sealed by the voter.
- h. In the upper left-hand corner of Envelope #2, the voter prints and signs his or her name, and prints the address of the Unit that entitles him/her to vote. A proxy holder voting on behalf of a Member at a Meeting shall print the name and address of the proxy giver in the upper left-hand corner of Envelope # 2, but shall sign the proxy holder's name on Envelope # 2.
- i. The owners of multiple properties must submit separate Secret Ballots in separate sealed Ballot Envelopes (#1 and #2) for each property owned.
- j. Envelopes #1 and #2 are preaddressed to the Inspector(s) at the location selected by the Inspector(s).
- k. Secret Ballots may be mailed to the selected address or delivered by hand by the Member to the location selected by the Inspector(s).
- l. All Secret Ballots must be mailed or delivered to the Inspector(s), or brought to a Meeting to be voted in person at the Meeting.
- m. The Member may request a receipt for hand delivery of the sealed Envelope #2 to the location selected by the Inspector(s). Any Member desiring a receipt for mail delivery should send the Secret Ballot by certified mail, return receipt requested, to the location selected by the Inspector(s). A Member shall not receive a receipt for hand delivery of a sealed envelope or Ballot brought to a Meeting.
- n. Only the Association's Secret Ballots and envelopes which are sent out to the Membership by the Association or are provided by the Association at the Membership Meeting will be accepted by the Inspector(s). No copies, faxes, or emails of the Secret Ballots and envelopes will be accepted or counted by the Inspector(s).
- o. Members must clearly print the correct name of the owner, the property address, and sign the upper left hand corner, or may use pre-printed address stickers or labels instead of personally printing their own information on Envelope #2. However, the information must be accurate and correct per the Association's records or it will not be valid.
- p. The Member must sign on the signature line shown on the upper left-hand corner of Envelope #2. If an outer mailing envelope is not signed by the Member, it may

not be counted by the Inspector(s) as a cast vote, except for quorum purposes in the discretion of the Inspector(s).

## **9. Proxies**

- a. The Association will not send out a proxy for the Annual Meeting or other Membership votes. Proxies will be accepted only if the Inspector(s) determines the proxy meets all of the requirements of the Bylaws, the Corporations Code and the Civil Code. Proxy holders shall not be given Secret Ballots pursuant to proxies until after the time that all proxies and Secret Ballots (except for those Secret Ballots to be distributed pursuant to proxies) have been registered, and the proxy has been upheld as valid. If the proxy giver has submitted a Ballot in accordance with these rules the proxy will be deemed revoked, the Ballot will be counted, and the proxy holder will not be given a Ballot to cast.
- b. Any instruction given in a proxy that directs the manner in which the proxy holder is to cast the vote must be set forth on a separate page of the proxy that can be detached and given to the proxy holder to retain.
- c. The proxy holder must be a Member of the Association as required by California Law, and must be present in person at the Membership Meeting and shall cast the proxy giver's/Member's vote by Secret Ballot at the Meeting unless the proxy is revoked by the proxy giver prior to the Inspector(s) receipt of the proxy giver's Secret Ballot at the Meeting. If the proxy holder is not present at the Meeting, the proxy shall not be valid for any purpose.
- d. Any Member who gives another Member his or her proxy does so with the full understanding that the Association and Inspector(s) will not be responsible for ensuring that any proxy holder votes the proxy in accordance with the proxy giver's direction. The Inspector(s) cannot verify or observe how the proxy holder marks the proxy giver's/Member's Secret Ballot.
- e. Any proxies previously distributed by the Association for quorum purposes only, including general proxies, will be valid and accepted by the Association until their expiration.

## **10. Effect of Submitting Secret Ballot**

- a. **ONCE A SECRET BALLOT IS RECEIVED BY THE INSPECTOR(S), THAT SECRET BALLOT CANNOT BE CHANGED, RETRIEVED, OR REVOKED.**
- b. Only one Secret Ballot may be submitted for each address. Once a Member submits a Secret Ballot with regard to a particular address, no other Secret Ballot or proxy may be submitted for that property. Should more than one Secret Ballot be submitted with regard to a particular address, the Secret Ballot which was earliest received may be counted for that property or the Inspector(s) may

determine to not count either Secret Ballot. If it cannot be determined which Secret Ballot was earliest received, no Secret Ballot will be counted for that property except one Ballot for quorum purposes only.

## **11. Registration of Secret Ballots at the Meeting**

- a. Verification of information on the outside of Envelope #2 and registration of envelopes received may be performed by the Inspector(s) or his/her designees prior to the Meeting or deadline for voting.
- b. Registration will be conducted by the Inspector(s) of Election or their designees.
- c. The Ballots will be opened and votes counted and tabulated by the Inspector(s) at a duly noticed Membership or Board Meeting in front of any Members or candidates who may wish to witness the registration and opening and counting of the Secret Ballots or Proxies once quorum is obtained.
- d. All Secret Ballots must be sealed in the two sealed envelopes and contain all required information on the upper left-hand corner of Envelope #2.
- e. The Inspector(s) will review the information provided on the upper left-hand corner of Envelope #2. The Inspector(s) will require, at a minimum, the following:
  - i. The Member must print his/her name or place a label on Envelope #2, it must be legible and must match the name of at least one (1) of the record owners of the property as shown on the Association's voter list;
  - ii. The Member's (or, in the case of a Secret Ballot cast pursuant to proxy, the proxy holder's) signature must be on Envelope #2;
  - iii. The property address shown on Envelope #2 must correspond to the Member's property address on the Association's records. The Inspector(s) will determine whether the failure to include information on Envelope #2 may result in the Secret Ballot being counted for quorum purposes only, or not counted for any purpose;
  - iv. If any Member fails to put a Secret Ballot into both of the sealed envelopes, and/or sends/delivers empty envelopes, the envelopes will not count for any purpose, including quorum.

## **12. Registration of Members in Person**

- a. A Member wishing to vote in person at the Membership Meeting must present himself/herself to the Inspector(s) with identification acceptable to the Inspector(s) to show that he/she is an Association Member. The holder of a general power of attorney for a Member must present the original, signed, notarized general power of attorney and identification to show that he/she is the attorney-in-fact and that the

general power of attorney authorizes the attorney-in-fact to act with regard to Association related matters.

- b. A Member may not revoke or change any previously received Secret Ballot. A Member may attend the Meeting, but will not be given a new Secret Ballot to vote at the Meeting if the Association has received a Secret Ballot for that property address.
- c. If a Secret Ballot has not been previously received by the Inspector(s) for a particular property address, a Member in attendance at the Meeting from that property address will be given a Secret Ballot along with two envelopes to mark and cast in secret at the Membership or Board Meeting. The Inspector(s) will mark the registration list to memorialize that the Member received a Secret Ballot at the Membership or Board Meeting. Such Secret Ballots may, at the discretion of the Inspector(s), be on paper of a color different than the color used for Secret Ballots cast by mail. Such Secret Ballots will only be counted at any Membership Meeting or Adjourned Meeting if properly placed into both Envelopes #1 and #2, and if they are otherwise valid pursuant to these Election Rules and California Law.
- d. Members voting in person at the Meeting must still use Envelopes #1 and #2, and Envelope #2 must be filled out, sealed and signed. Failure to use the two envelope system at the Meeting may lead to invalidation of the Secret Ballot cast at the Meeting and may prevent the Secret Ballot from being counted at any adjourned date if the Meeting is adjourned for lack of a quorum.

### **13. Registration of Proxies/Determination of Quorum**

- a. If a Member brings proxies to the Membership Meeting, the Inspector(s) will review and make all necessary determinations regarding those proxies, including the validity of those proxies. The Inspector(s) are not required to observe and verify that Secret Ballots are marked by the proxy holder in the manner instructed by the proxy giver.
- b. The Inspector(s) will determine, if possible, whether quorum has been obtained, based upon the count of the number of Members voting by proxy, or by a mailed or delivered Secret Ballot as shown on the registration list. The Inspector(s) may make this determination at any time, including prior to a Meeting.
- c. If a Member has cast a Secret Ballot by mail or delivery which is received by the Inspector(s) prior to the Inspector(s)' receipt of a Secret Ballot cast by the Member's proxy holder, the Member's Secret Ballot will supersede and control over any proxy submitted or any Secret Ballot later cast by the Member's proxy holder.
- d. A Member may revoke his/her proxy by casting a Secret Ballot by mail or delivery to the Inspector(s) or as otherwise provided in Corporations Code Section 7613, provided such revocation is completed prior to the Inspector(s)' receipt of a

Secret Ballot from the Member's proxy holder and in advance of any vote or Membership Meeting.

- e. Upon determination that a quorum has been obtained, the Inspector(s) may close registration and close the polls at the Membership Meeting.

#### **14. Adjourned for Lack of Quorum/Adjourned Meetings**

- a. Any Membership Meeting may be adjourned to a later place and/or time by the vote of the majority of Members present in person, by valid power of attorney, or by valid proxy. If quorum is not obtained, a majority of the Members present in person, by valid power of attorney, or by valid proxy may adjourn the Meeting but may take no other action. (Bylaws, at Article IV, Section 4.7; Corporations Code Section 7512). The Members at any reconvened/adjourned Meeting may take any action that might have been legally transacted at the original Meeting.
- b. The required quorum at any Adjourned Membership Meeting consists of the presence in person, proxy or Secret Ballot, of Members having a majority of the total votes of the Association. (Bylaws, at Article IV, Section 6).
- c. Secret Ballots which are received by the Inspector(s) in properly completed, sealed Envelopes #1 and #2 will be valid for Adjourned Membership Meetings.
- d. No Ballots may be opened or counted at Membership or other Meetings unless and until a quorum is present.
- e. The Secret Ballots will be opened and counted during duly noticed Board or Membership Meetings. The Inspector(s) may request that any Meeting be recessed to allow the Inspector(s) to complete the counting and tabulation of the Secret Ballots at another time. Notice of the recessed Meeting will be given as required by law. The Inspector(s) will continue to maintain custody of all Secret Ballots and maintain the confidentiality of any count and tabulation, until the counting and tabulation is complete or may delegate custody of Ballots and information to management.

#### **15. Observation/Custody of Ballots, Etc.**

- a. Any candidate or Association Member may witness the opening of the Ballots, and the counting and the tabulation of the votes.
- b. No person may open any envelopes or otherwise review any Secret Ballot prior to the time and place at which the envelopes are opened and the Secret Ballots are counted and tabulated by the Inspector(s).
- c. The Secret Ballots and other election materials at all times will be in the custody of the Inspector(s) or his/her/its designee at a location designated by the

Inspector(s) for one (1) year after the tabulation of the votes, at which time custody shall be transferred to the Association.

- d. The Inspector(s) may delegate the custody of the Ballots/Election materials to the Association's custodian of records.

#### **16. Consultation With Association Counsel**

The Inspector(s) will have the authority to confer with Association legal counsel in advance of or at the Meeting. Legal counsel represents the Association and does not represent the Members, candidates, Inspector(s), Board Members, management or any other individual. By the adoption of these Election Rules, Association legal counsel has been authorized by the Board of Directors to provide advice to and to waive the attorney-client confidential communication privilege as determined necessary or prudent by the attorney to inform and advise the Inspector(s) regarding issues or matters related to the Inspector(s) performance of their duties for the Association. The Inspector(s) may confer with Association legal counsel outside the presence of the Members.

#### **17. Tabulation, Counting, Inspectors' Conduct, Etc.**

- a. Once quorum has been obtained, the Inspector(s) may open the sealed Ballot envelopes and begin the count and tabulation of the Ballots at a duly noticed Membership Meeting or Board Meeting.
- b. All Ballots shall be opened and votes shall be counted and tabulated by the Inspector(s) in public, at a properly noticed open Meeting of the Board or of the Members.
- c. If the Inspector(s) open the envelopes and determine that there is no Secret Ballot in an envelope, the empty envelope will not be counted towards a quorum or for any other purpose.
- d. Members and candidates may witness the counting and tabulation from a distance of at least six (6) feet from any Inspector.
- e. The Inspector(s) are not required to provide Members or candidates with information, answer questions, or engage in discussion. Inspector(s) shall not provide any interim counts or tabulations.
- f. Members and candidates may not communicate with the Inspector(s) during the inspection, opening, counting or tabulation process.
- g. Any witness or observer may be ejected or removed by the Inspector(s) for any disruptive, noisy, or rude behavior.
- h. Inspector(s) shall make all determinations regarding Ballots and vote counts, including deciding whether to count a Ballot for quorum purposes if the Inspectors

find they cannot determine the voter's intent as to how votes should be cast. Any Secret Ballot must be legible and clearly marked. If the Secret Ballot is marked to cast more votes than the maximum number of votes permitted (overvote), no votes will be counted, and the Secret Ballot will be used for quorum purposes only. A Member does not have to use all of his/her votes, and may cast fewer votes than the maximum number of votes allowed (undervote).

- i. If a Secret Ballot is signed or other identification is written on the Secret Ballot by the Owner, the Inspector(s) may determine to count the Secret Ballot. However, the Association will not protect the Owner's privacy and will not be responsible for redacting that information in the event a recount or review of the Secret Ballots is requested.
- j. The Inspector(s) will certify the results of the election and vote by completing a written report of the Inspector(s) of Elections.
- k. The candidate(s) receiving the highest number of votes will be elected.
- l. If the number of candidates for the Board of Directors does not exceed the number of seats to be filled, those Members and valid holders of general power of attorney forms, and valid proxy holders who are present at the Meeting may cast Secret Ballots in favor of or opposed to election of the candidates as presented. This vote must take place by Secret Ballot. Should changes in California law allow election of candidates by acclamation, including any statutes that would not require the Association to send out Secret Ballots under certain circumstances, or if a voice vote or vote by show of hands would be permitted, a vote by acclamation may proceed as allowed by law.

## **18. After Tabulation**

- a. Results of the election or vote shall be announced and be promptly reported to the Board of Directors and the tabulation recorded in the minutes of the next Meeting of the Board. The Inspector(s) may also determine whether the tabulated results will be announced at the Meeting.
- b. The tabulated results shall be available for review by all Members after the certification of the Membership Meeting by the Inspector(s).
- c. **Tie Votes:** For election of Directors, in the event of a tie vote among any number of the candidates, the Association will notice a Special Membership Meeting and send out Ballots to all Members for a vote to break the tie. Said vote shall be conducted in accordance with the procedures herein, to the extent they are applicable to a run-off vote. No previously cast Ballots will be used at the Meeting to break the tie.
- d. The tabulated results of the election/vote shall be promptly reported to the Board and shall be available for review by the Members of the Association. Within

fifteen (15) days of the election/vote, the Board shall give general notice of the tabulated results of the election/vote.

- e. The Secret Ballots, signed voter envelopes, voter list, proxies, and the candidate registration list will be stored in a secure place in the custody of the Inspector(s) or in a location designated by the Inspector(s) for one year after the date of the election/vote at which time custody shall be transferred to the Association.
- f. In the event of an election challenge, the Inspector(s) shall, upon written request, make the Ballots available for inspection and review by an Association Member or the Member's authorized representative. In order to protect the security of the Secret Ballots, one or more Association representatives must be present during such review.
- g. Any recount shall be conducted in a manner that shall preserve the confidentiality of the vote. However, the Association will not be responsible for redacting or otherwise protecting any identification/other information which is written on a Secret Ballot by a Member.
- h. The Inspector(s) may establish rules and procedures for the review and recount by Members.

**19. Access to Association Facilities and Communications/Use of Association Funds**

- a. If any candidate or Member advocating a point of view is provided access to any Association media, including newsletters, internet websites, or other Association publications during any campaign, for purposes that are reasonably related to that election, then all candidates and Members advocating a point of view shall be provided with equal access for purposes reasonably related to that election.
- b. The Association shall not edit or redact the content from the communications of candidates and Members advocating a point of view, but may provide a statement specifying that the candidate or Member, not the Association, is responsible for that content.
- c. Access to common area meeting space will be made available to all candidates and Members advocating a point of view, for purposes reasonably related to the election or vote, at no charge. The Association may set forth the specific dates and times at which such access will occur in the Notice of the Membership Meeting.
- d. Each candidate or Member advocating a point of view may prepare and deliver to the Association's managing agent a statement not exceeding 500 words to be provided to Members through Association media. The Association shall not edit or redact any content from such campaign communications. The candidate or Member who issues the communication shall be solely responsible for its content.

- e. Access to common area meeting space will be made available to all candidates and Members advocating a point of view, for purposes reasonably related to the election or vote, at no charge. The Association may set forth the specific dates and times at which such access will occur in the Notice of the Membership Meeting.
  
- f. If a Member wants to advocate a point of view, for purposes reasonably related to the election or vote, a Member may submit a written statement to the Association. The Association is not required to send notice to Members of their opportunity to submit a written statement advocating a point of view. The Association may choose to send out a separate courtesy form for a Member to submit their statement, but even if no form is provided a Member may still submit a written statement.

THE FOREGOING ASSOCIATION VOTING AND ELECTION RULES AND PROCEDURES WERE ADOPTED FEBRUARY 24, 2022, by the Board of Directors in a duly noticed open Board meeting following the Board's compliance with Civil Code Section 4360.

**ATTESTED TO:**

By: \_\_\_\_\_

Secretary: \_\_\_\_\_