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**HOMEOWNERS ASSOCIATION**

# **MEMBERSHIP MEETING AND VOTING RULES**

**MONTAGE AT MISSION HILLS | CATHEDRAL CITY | CALIFORNIA**

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## 1. INTRODUCTION

- 1.1 **Board Composition.** The Board of Directors (“Board”) consists of five (5) Directors, who serve two-year terms. (Bylaws, Article VII, Sections 7.2 and 7.3.)
- 1.2 **Association Composition.** The Association has one hundred twenty-eight (128) Lots.
- 1.3 **Annual Meeting Notice.** The Annual Meeting is held at a date, time and place to be determined by the Board and set forth in the notice of meeting sent to the Members. (Bylaws, Article V, Sections 5.1 and 5.2.)
- 1.4 **Cumulative Voting.** Cumulative voting is not permitted. (Bylaws, Article VII, Section 7.4.)
- 1.5 **Quorum Formation.** The quorum at a Membership meeting consists of the presence in person or Secret Ballot, of twenty-five percent (25%) of the Members. (Bylaws, Article V, Section 5.5(a).)
- 1.6 **Adjourned Meeting Quorum.** The required quorum at any adjourned Membership meeting consists of the presence in person or Secret Ballot, of ten percent (10%) of the Members. (Bylaws, Article V, Section 5.6(a).)

## 2. MEMBERSHIP MEETINGS, ANNUAL MEETING, ELECTION OF DIRECTORS AND MEMBERSHIP VOTES

- 2.1 **Annual Meeting.** The Association will hold an Annual Meeting of the Membership to elect Directors and to conduct Association business that is properly brought before the Members and/or on the agenda (“Annual Meeting” or “Election”).
- 2.2 **Ballot Distribution.** Ballots may not be denied to a member for any reason other than not being a member at the time the ballots are distributed. Ballots may not be denied to a person with a general power of attorney for a Member, and the ballot of a person with general power of attorney for a Member must be counted, if returned in a timely manner.
- 2.3 **Photo Identification.** Persons who attend a Meeting may be asked to provide photo identification or other documents to prove that they are Owners of a Lot or hold a general power of attorney for an Owner of a Lot.
- 2.4 **Board Qualification Requirements.** The following requirements apply to current members of the Board of Directors and all nominees for the Board of Directors:
  - (A) A person is disqualified from nomination who is not a Member at the time of their nomination.
  - (B) If title to a Lot is held by a legal entity that is not a natural person, such as a corporation or a limited partnership, the governing authority of that legal entity may appoint a natural person to be a Member for purposes of these Rules.
  - (C) A person must be current in the payment of regular and special assessments. A person may not be disqualified for nonpayment of fines, fines renamed as assessments, collection charges, or costs levied by a third party. Further, a person

may not be disqualified if he or she has paid the regular or special assessment under protest; if he or she has entered into and is in compliance with a payment plan; or if he or she has not been provided the opportunity to engage in internal dispute resolution.

- (D) 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 Lot, and the other person is already properly nominated for the current election or an incumbent director.
- (E) A nominee is disqualified if that person has been a member of the Association for less than one year.
- (F) 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 were elected or serving on the Board, either prevent the Association from purchasing insurance required by Section 5806 of the Civil Code or terminate the Association's existing insurance coverage required by Section 5806 as it relates to that person should that person be elected.

- 2.5 **Nomination Notification.** The Association shall provide general notice of the procedure and deadline for submitting a nomination at least ninety (90) days before the deadline for submitting a nomination. This subdivision shall only apply to elections of Directors and to recall elections.
- 2.6 **Board Nominations.** Nominations for Director may be made by a Nominating Committee consisting of a chairperson, who may be a member of the Board, and two (2) or more Members of the Association (who may also be members of the Board). The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. (Bylaws, Article VII, Section 7.5(a).) Nominations may also be made by the Members, as set forth in subdivision 2.7, below.
- 2.7 **Member Nominations.** Nominations for Director may be made by any member of the Association by completing a Board Member Application Form and all required documents and submitting the completed application package to the Association by the deadline stated in the form.
- 2.8 **Election Noticing.** For elections of Directors and for recall elections, the Association shall send an individual notice to all Members at least sixty (60) days before the deadline for submitting nominations. The notice shall include a Board Member Application Form. All Board Member Application 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 be considered for inclusion on the Notice of Annual Meeting and the Ballot.
- 2.9 **Board Member Application Form.** The Board Member Application Form may include the requirement for each candidate to submit a personal image, a one-page, double-spaced biography and a one page, double-spaced written candidate statement reasonably related to the election, including advocating a point of view. The Association will not edit or redact candidate statements but may include a statement specifying that the candidate is responsible for that content. (Civ. Code, § 5105(a)(1).)

2.10 **Application Review.** The Association's Secretary, or their designee, will review the Board Member Application Forms and required documents, and verify candidate eligibility on the candidate registration list. When the nomination is made by the Nominating Committee or an Association member other than a nominee, the nominated candidates must be contacted to determine their willingness to accept the nomination, or the nominated candidate may submit a letter to the Association in advance of the determination of candidate eligibility. If the person is not qualified to be a nominee, or the person declines a nomination, that person's name will not be included on the Secret Ballot that is mailed to the Membership. The Secretary may delegate this certification to management, to the Inspector of Elections or to another Director not running for office at any time.

2.11 **Election By Acclamation.** Notwithstanding the secret balloting requirement in Rule 5 below, or any contrary provision in the governing documents, when, as of the deadline for submitting nominations provided for in Rule 2.6, Rule 2.7, or Rule 2.8 above, the number of qualified candidates is not more than the number of vacancies to be elected, as determined by the Secretary or Inspectors of the Elections, the Board 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 Board 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 is provided at least ninety (90) days before the deadline for submitting nominations. 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 seven (7) and thirty (30) days before the deadline for submitting nominations. 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.

- 2.12 **Secret Ballots.** The Association will utilize a secret ballot (“Secret Ballot” or “Ballot”) process, which is required by California law, as described in Section 4, below, for the following categories of votes:
- (A) A vote of the Membership regarding assessments;
  - (B) Election or removal of Members of the Association’s Board of Directors;
  - (C) Amendments to the governing documents;
  - (D) Grant of exclusive use of common area property pursuant to Civil Code Section 4600; and
  - (E) Any other Membership votes which may be required or allowed by law.
- 2.13 **Annual Meeting Notice.** As set forth in Rule 2.1., above, the Association’s Annual Meeting will be held at a time to be set by the Board. The Inspector(s) of Elections will send out a Notice of Annual Meeting, which will advise all Members of times when registration will begin, when the Meeting will be called to order, and when the polls will close. The Notice will also state the dates and times when the Members and candidates may attend the Annual Meeting to witness the Inspector’s registration, review, count and tabulation of the Ballots for the Annual Meeting.
- 2.14 **Special Meeting Notice.** Other meetings of the Members (“Special Membership 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 duly noticed open Board meeting.
- 2.15 **Secret Ballot Voting.** The Directors must be elected by acclamation as approved by the Board according to the provisions of Rule 2.10 above or by Secret Ballot and cannot be nominated from the floor and elected by voice vote or show of hands at the Annual or other Special Membership Meeting. At Annual Meetings or other Special Membership Meetings where Directors will be elected, the Secret Ballot votes for Directors will be counted and tallied, and the Report of the Inspector of Elections will provide the tabulated results of the vote and election.
- 2.16 **Hand and Voice Voting.** Voting on other business at the Annual or other Special 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 the Board’s selected system of parliamentary procedure may be conducted by a show of hands, voice vote or other recognized method, including a roll call vote.
- 2.17 **Voting Protocol.** All Membership Meetings and votes will be conducted in accordance with the Association’s Governing Documents and California Corporations and Civil Codes, as appropriate.
- 2.18 **Voting Power.** Members will have one vote per Lot owned. When more than one person holds an ownership interest of record in any Lot, all such persons shall be Members of the Association; although in no event shall more than one vote be cast with respect to any Lot. In elections of Directors, this one vote will be multiplied by the number of Director positions up for election (e.g., if three (3) Director positions are available, each Lot will receive three (3) votes to cast).



- 2.19 **Record Keeping.** The Association will create and retain a candidate registration list and a voter list. The candidate list shall include names and addresses of individuals nominated as a candidate for election to the Board of Directors. The voter list shall include the name, voting power, and either the physical address of the Member'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 Lot, or if only the parcel number is used. 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 of Elections, who shall make any correction within two (2) business days of being notified of the error or omission.
- 2.20 **Record Retention.** The Association shall maintain Association election materials for one year after the date of the election. Association election materials mean returned ballots, signed voter envelopes, the voter list of names, parcel numbers, and voters to whom ballots were to be sent and the candidate registration list. Signed voter envelopes may be inspected but may not be copied.

### 3. ELECTION COMMITTEE

- 3.1 **Committee Composition.** The Election Committee shall consist of a chairperson, who shall be the Inspector of Elections or a Member of the Board, and no more than two (2) more Members of the Association (who may also be Members of the Board not standing for office in the coming election year).
- 3.2 **Committee Appointment.** The members of the Election Committee shall be appointed at the September Board meeting each year and shall serve for a period of one full year.
- 3.3 **Committee Responsibilities.** The Election Committee shall facilitate completion of the Association's annual election process according to provisions contained in the Association's Bylaws and Election Rules and then annually review the Association Election Rules, calendar and related election documents immediately following the Association's Annual Meeting and make recommendations to the Board for modifications or updates to the Election Rules and associated election materials. The recommendations will be presented to the Board no later than the July Regular Board Meeting.

### 4. INSPECTOR(S) OF ELECTION

- 4.1 **Inspector Appointment.** One (1) or three (3) independent third-party Inspector(s) of Election ("Inspector") will be selected and appointed by the Board of Directors at an open Board Meeting.
- 4.2 **Inspector Qualifications.** For purposes of this section, independent third parties include the following:
- (A) A volunteer poll worker working for the county registrar of voters;
  - (B) A Licensee of the California Board of Accountancy;

- (C) A Notary Public;
- (D) 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
- (E) Such other persons as may be provided by California Law including parties who meet the requirements in Civ. Code, § 5110(b)(1).

4.3 **Inspector of Elections Disqualification.** The Board will not select as an Inspector a Member of the Board of Directors, a candidate for the Board of Directors, a relative of a Member of the Board or of a candidate, or a person currently employed by or under contract to the Association for other compensable services, other than serving as Inspector.

4.4 **Inspector of Elections Compensation.** The Board may determine to pay compensation to the professional non-Member third party Inspector, if any. If the Board determines to appoint and pay a professional non-Member independent third party to be Inspector, the Board will require the following terms to be met by the independent third-party Inspector:

- (A) A written contract for the Inspector to be hired as an independent contractor;
- (B) The Inspector will maintain insurance with at least one million dollars (\$1,000,000.00) commercial general liability coverage, including completed operations coverage, and one million dollars (\$1,000,000.00) Directors & Officers/Errors & Omissions (naming the Association and its management company as additional insureds on all insurance policies);
- (C) After tabulating the ballots, the Inspector shall maintain custody of the Association Election Materials, as defined in Rule 14.5, and store the Association Election Materials in a secure place for at least one (1) year, after which time the Association Election Materials shall be turned over to the custody of the Association and maintained as records of the Association for so long as the law requires;
- (D) The professional non-Member independent third-party Inspector shall indemnify the Association, if the professional non-Member independent third-party Inspector is grossly negligent, or commits malicious and/or willful misconduct.

4.5 **Inspector of Elections Removal.** If an Inspector is unwilling to, unable to, or does **not** perform his or 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 in his or her place.

4.6 **Inspector of Elections Duties.** The duties of the Inspector of Elections are as follows:

- (A) Prepare an Annual Association Election calendar identifying key dates, election tasks and election deliverables for presentation to the Board of Directors no later than the July Regular Board meeting each year;
- (B) Provide information including the election calendar, election forms and election results and other content relative to the Annual Association Meeting and Elections to the Association webmaster for posting on the Association website;
- (C) Maintain voter lists and candidate registration lists from Membership information provided by the Association's Community Manager;

- (D) Create or approve a final Board of Directors Application form to be used for the solicitation of candidates for the Board of Directors;
- (E) By no later than the September Regular Board meeting prepare a report and recommendation to the Board of a final date for the submittal of candidate applications and the date for the Association's Annual Meeting for their approval;
- (F) At least ninety (90) days before candidate applications are due, deliver to Members (or cause to be delivered) individual notice of the election and the procedure for nominating candidates, the deadline for submitting Board Member Application Forms, application instructions, and a copy of the Election Rules;
- (G) Prior to the mailing of the Secret Ballots by the Association, the Inspector will determine the location where the sealed Secret Ballots will be mailed or delivered;
- (H) At least thirty (30) days before an election, deliver to Members (or cause to be delivered) ballots, voting instructions, and a copy of the Election Rules;
- (I) Determine the number of Memberships entitled to vote and the voting power of each;
- (J) Receive Secret Ballots, if any;
- (K) Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote;
- (L) Determine when the polls shall close;
- (M) Count and tabulate all votes;
- (N) Determine the results of the election or vote and report those results to the Board at the Association's Annual Meeting;
- (O) Make a report to the Board recommending certifying all results of the election for consideration by the Board at the next regular meeting of the Board following the Association's Annual Meeting;
- (P) Make a report with recommendations to the Board for changes to the Election Rules as may be necessary to ensure the Election Rules remain in compliance with changes in the State law and best practices for conducting an election;
- (Q) The Inspector of Elections shall also determine where the Inspector will maintain custody of the sealed Secret Ballots, signed voter envelopes, voter list, proxies, and candidate registration list, before and after the count and tabulation of the vote by the Inspector;
- (R) Perform any acts as may be proper to conduct the election with fairness to all Members, in accordance with California Law and these Rules; and,
- (S) 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 interests of all Members.

4.7 **Election Rules Posting.** To satisfy the requirement of notice regarding the Election Rules, as set forth in Rule 4.6.(F), above, the Election Rules may be posted to the Association's website, if any, and including the website address on the ballot together with the following phrase in at least 12-point font: "The rules governing this election may be found here:"; or the Election Rules may be sent by individual delivery under Civil Code Section 4040.

4.8 **Inspector of Elections Support.** The Inspector may appoint and designate additional personnel to assist him/her/them in his/her/their duties, including registration, opening, counting and tabulating, but the Inspector will oversee and be responsible for all actions of such designees. Any additional persons appointed to assist the Inspector must meet the qualifications stated above at Rule 4.2. Only the Inspector may sign the

Inspector's report of the election, but additional designees may be required to sign an oath regarding his/her/their duties.

- 4.9 **Majority Decisions.** 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.
- 4.10 **Inspector of Elections Report.** The report of the Inspector of Elections 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.

## 5. SECRET BALLOT PROCEDURES

- 5.1 **Balloting Notice.** 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; 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.
- 5.2 **Ballot Delivery.** At least thirty (30) days prior to the Annual Meeting, other Special Membership Meeting, or vote to be taken, the Inspector will deliver or cause to be delivered to the Members, by first-class mail, the Secret Ballots, along with two pre-addressed envelopes ("Envelopes") and instructions on how to return the Secret Ballots. The Annual Meeting date, other Membership meeting dates, or deadline date for other votes taken without a meeting will be considered the due date for completed Secret Ballots to be received by the Association. A Notice of Meeting will also be sent, which will include instructions on how to return Secret Ballots.
- 5.3 **Election Rules Delivery.** At least thirty (30) days before any election, the Inspector will deliver or cause to be delivered Election Rules as required by Rule 4.6(G), above.
- 5.4 **Ballot Confidentiality.** The Secret Ballot itself will not identify the voter by name, address, parcel number or Lot number.
- 5.5 **Ballot Content.** The Secret Ballot and Notice will contain the names of any candidates known to the Association at the time the Secret Ballot and Notice are mailed. Only candidates for which an application has been received and verified shall be included on the Secret Ballot. No space for write-in candidates shall be provided on the ballot as write-in candidates are not permitted under these rules.
- 5.6 **Balloting Instructions.** The following describes the process for balloting:
- (A) The Secret Ballot itself is not signed by the voter but is inserted into an inner ballot envelope which is pre-addressed to the Inspector (Envelope #1).
  - (B) The voter then seals Envelope #1 and inserts Envelope #1 into a second pre-addressed outer mailing envelope (Envelope #2), which is then sealed by the voter.
  - (C) In the left-hand corner of Envelope #2, the voter prints and signs his/her/their name, and prints the address of the Lot that entitles him/her/them to vote.

- (D) The owners of multiple properties must submit separate Secret Ballots in separate sealed Ballot Envelopes (#1 and #2) for each property owned.
- (E) Envelopes #1 and #2 shall be pre-addressed to the Inspector at the location selected by the Inspector.
- (F) Secret Ballots may be mailed to the selected address or delivered by hand by the Member to the location selected by the Inspector.
- (G) All Secret Ballots must be mailed or delivered to the Inspector, or brought to a Meeting to be voted in person at the Meeting.
- (H) Members must clearly print out the correct name of the owner, the 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.
- (I) 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 will not be counted by the Inspector for any purpose, including quorum or as a cast vote.

5.7 **Ballot Receipt.** The Member may request a receipt for hand delivery of the sealed Envelope #2 to the location selected by the Inspector. 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. A Member shall not receive a receipt for hand delivery of a sealed Envelope or Ballot brought to a Meeting.

5.8 **Ballot Acceptance.** 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. No copies, faxes, or emails of the Secret Ballots and envelopes will be accepted or counted by the Inspector.

## 6. EFFECT OF SUBMITTING SECRET BALLOT

6.1 **Ballot Acceptance.** Once a Secret Ballot is received by the Inspector, that Secret Ballot cannot be changed, retrieved or revoked.

6.2 **Balloting Procedure.** Only one Secret Ballot may be submitted for each Lot. Once a Member submits a Secret Ballot with regard to a particular Lot, no other Secret Ballot may be submitted for that Lot. Should more than one Secret Ballot be submitted with regard to a particular Lot, the Secret Ballot which was earliest received may be counted for that property, or the Inspector may determine not to count either Secret Ballot, at the discretion of the Inspector. If it cannot be determined which Secret Ballot was earliest received, no Secret Ballot will be counted for that Lot.

## 7. IN MEETING SECRET BALLOT REGISTRATION VERIFICATION

7.1 **Membership Registration List.** The Association will have the Membership registration list at the Membership meeting.

- 7.2 **Ballot Verification.** Verification of information on the outside of Envelope #2 and registration of envelopes received may be performed by the Inspector or his/her/their designees prior to the meeting or deadline for voting.
- 7.3 **Member Registration.** Registration will be conducted by the Inspector of Elections or his/her/their designees and votes counted and tabulated by the Inspector 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.
- 7.4 **Ballot Requirements.** 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.
- 7.5 **Ballot Inspection.** The Inspector will review the information provided on the upper left-hand corner of Envelope #2. The Inspector will require, at a minimum, the following:
- (A) The Member must print his/her/their name or place a label on Envelope #2;
  - (B) The signature must be legible and must match the name of at least one (1) of the record owners of the Lot as shown on the Association's Membership list;
  - (C) The address shown on Envelope #2 must correspond to the Member's Lot on the Association's records. The Inspector will determine whether the failure to include information on Envelope #2 should result in the Secret Ballot being counted for quorum purposes only, or not counted for any purpose; and
  - (D) 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.

## 8. IN-PERSON MEMBER REGISTRATION

- 8.1 **In Person Voting.** A Member wishing to vote in person at the Membership meeting must present himself/herself/themselves at the registration table at a location determined by the Inspector of Elections with identification to show that he or she is the record Owner of the Lot. The holder of a general power of attorney for a Member must present himself/herself/themselves at the registration table with an original, signed, notarized power of attorney and identification to show that he/she/they is the attorney-in-fact.
- 8.2 **Vote Revocation or Modification.** 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 Lot.
- 8.3 **In-Person Voting Process.** If a Secret Ballot has not been previously received by the Inspector for a particular Lot, a Member in attendance at the meeting from that Lot will be given a Secret Ballot along with two envelopes to mark and cast in secret at the Membership or Board meeting. The Inspector 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, 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.

- 8.4 **In-Person Voting Ballot Procedure.** Members voting in person at the Membership or Board 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 Membership or Board meeting may lead to invalidation of the Secret Ballot cast at the Membership or Board meeting and may prevent the Secret Ballot from being counted at any adjourned date if the Membership meeting is adjourned for lack of a quorum.
- 8.5 **In Person Ballot Disqualification.** If, in the sole discretion of the Inspector, the requirements above are not met, the envelope/Secret Ballot may not be registered and will not be valid for any purpose, including establishing a Quorum.

## 9. DETERMINATION OF QUORUM

- 9.1 **Quorum Determination.** The Inspector will determine, if possible, whether quorum has been obtained, based upon the count of the number of Members voting or by a mailed or delivered Secret Ballot as shown on the registration list.
- 9.2 **Quorum Calculation.** The quorum at a Membership meeting consists of the presence in person, or by Secret Ballot, of twenty-five percent (25%) of the voting power of the Members. (Bylaws, Article V, Section 5.5(a).)
- 9.3 **Polls Closure.** After the time specified in the notice to the Members relating to the closing of the polls has passed, and upon determination that a quorum has been obtained, the Inspector may close registration and close the polls.

## 10. ADJOURNED FOR LACK OF QUORUM

- 10.1 **Meeting Adjournment.** Any Membership meeting, Annual or Special, may be adjourned or adjourned to another place and/or time by the vote of the majority of Members present at the Meeting, either in person or by valid discretionary proxy. The Members at any reconvened Meeting may take any action that might have been transacted at the original Meeting. The required quorum at any adjourned Membership meeting consists of the presence in person or Secret Ballot, of ten percent (10%) of the voting power of the Members. An Adjourned Membership Meeting must be held not more than forty-five (45) days from the date the original meeting was called. (Bylaws, Article V, Section 5.6(b).)
- 10.2 **Adjourned Meeting Ballot Proviso.** Secret Ballots that are received by the Inspector, in properly completed and sealed Envelopes #1 and #2, will be valid for adjourned Membership meetings.
- 10.3 **Quorum Requirement for Ballot Counting.** No ballots may be counted at Membership meetings unless a quorum is present.
- 10.4 **Ballot Counting.** The Secret Ballots will be counted during duly noticed Board or Membership meetings. The Inspector may request that any Meeting be recessed to

allow the Inspector to complete the counting and tabulation of the Secret Ballots at another time. Notice of the recessed Meeting will be given to all Members and candidates of the location, dates and times when the counting and tabulation will be performed. The Inspector will continue to maintain custody of all Secret Ballots until the counting and tabulation is complete or may delegate custody to the Association's legal counsel or management.

## **11. BALLOT TABULATION OBSERVATION/ BALLOT CUSTODY**

- 11.1 **Ballot Tabulation Viewing.** Any candidate or other Member of the Association may witness the opening of sealed Secret Ballots, proxies (if any), and the counting and the tabulation of the votes. When the Annual Meeting is conducted in person, individuals shall be given the opportunity to view the ballot counting process from a location designated by the Inspector of Elections. The viewing location shall be no closer than six (6) feet from the location where ballots are opened and votes tabulated. Should the Annual Meeting be held virtually, then the Inspector of Elections shall position a video camera six (6) feet from the ballot opening and vote tabulation to clearly televise the process.
- 11.2 **Ballot Handling.** No person, including any Member of the Association, 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.
- 11.3 **Election Materials Custody.** The Secret Ballots and other election materials at all times will be in the custody of the Inspector, or at a location designated by the Inspector, for one (1) year after the tabulation of the votes.

## **12. CONSULTATION WITH ASSOCIATION COUNSEL**

- 12.1 **Attorney Consultation.** The Inspector will have the authority to confer with the Association's legal counsel in advance of or at the meeting. Legal counsel represents the Association and does not represent the Members, candidates, Inspector, Board Members, management or any other individual.
- 12.2 **Waiver of Attorney Client Privilege.** By the adoption of these Election Rules, Association legal counsel has been authorized by the Board 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 regarding issues or matters related to the Inspector's performance of his/her/their duties for the Association.
- 12.3 **Attorney Consultation Setting.** The Inspector may confer with Association legal counsel outside the presence of the Members.

## **13. TABULATION, COUNTING, INSPECTOR'S CONDUCT, ETC.**



- 13.1 **Ballot Opening Process.** Once the balloting has been closed by the Inspector, the Inspector may then open the sealed envelopes and begin the count and tabulation of the ballots. All (sealed) inner (#1) envelopes will be set aside upon opening the duly registered Envelopes #2; Envelopes #1 will then be opened and the ballots tabulated.
- 13.2 **Public Viewing.** All votes shall be counted and tabulated by the Inspector in public, at a properly noticed open Meeting of the Board or of the Members, after verification of a quorum of the Membership.
- 13.3 **Ballot Missing.** If the Inspector opens the envelopes and determines that there is no Secret Ballot in an envelope, the empty Envelope will not be counted towards a quorum or for any other purpose.
- 13.4 **Viewing Distance.** Members and candidates may witness the counting and tabulation from a distance of at least six (6) feet from any Inspector. Should the Annual Meeting be held virtually, then the Inspector of Elections shall position a video camera six (6) feet from the ballot opening and vote tabulation area to clearly televise the entire process.
- 13.5 **Interim Reporting Prohibition.** The Inspector will not provide Members or candidates with information, will not answer questions, or engage in discussion, and will not provide any interim counts or tabulations. Inspectors will only provide the Members or candidates with a final count and tabulation.
- 13.6 **Interim Communication Prohibition.** Member or Candidate Members and candidates may not communicate with the Inspector during the inspection, opening, counting or tabulation process.
- 13.7 **Public Disruption.** Any witness or observer may be ejected or removed by the Inspector for any disruptive, noisy, or rude behavior.
- 13.8 **Ballot Validity.** 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, 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/their votes, and may cast fewer votes than the maximum number of votes.
- 13.9 **Ballot Content.** If a Secret Ballot is signed or other identification is written on the Secret Ballot by the owner, the Inspector 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.
- 13.10 **Election Results Certification.** Inspector will certify the results of the election by completing a written report.

## 14. POST TABULATION

- 14.1 **Election Results Reporting.** Results of the election or vote shall be announced and be promptly reported to the Board and the tabulation recorded in the minutes of the next

Meeting of the Board. The Inspector may also determine whether the tabulated results will be announced at the Meeting.

- 14.2 **Election Results Viewing.** The tabulated results shall be available for review by all Members after the certification of the Membership meeting by the Inspector.
- 14.3 **Tie Votes.** In the event of a tie vote among any number of the candidates, unless those candidates are present and agree to break the tie by coin toss, lot, or any other method of determining the results by chance, 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 or proxies will be used at the meeting to break the tie.
- 14.4 **Election Results Notification.** Within fifteen (15) days of the election/vote, the Board shall publicize the tabulated results of the election/vote in a communication directed to all the Members by General Delivery.
- 14.5 **Election Materials Storage.** Secret Ballots, outer mailing Envelopes (#2), voter list, proxies, candidate registration list, and the meeting registration list (“Association Election Materials”), will be stored in a secure place in the custody of the Inspector, or in a location designated by the Inspector, for one (1) year after the date of the election/vote, at which time custody shall be transferred to the Association.
- 14.6 **Election Materials Review.** In the event of an election challenge and upon receipt of a written request from a Member for review or recount, the Association will make the Association Election Materials available for inspection and review by Members or their authorized representatives. In order to protect the security of the Association Election Materials, one or more Association representatives must be present during such inspection and review.
- 14.7 **Election Materials Reproduction.** Upon the written request of a Member, in compliance with the requirements of Civil Code Section 5200, *et seq.*, the Association shall provide a copy of the Association Election Materials to the requesting Member, with the exception of the outer mailing Envelopes (#2), which may only be inspected and not copied.
- 14.8 **Election Material Original Content.** Any recount shall be conducted in a manner that shall endeavor to preserve the confidentiality of the vote. However, the Association will not be responsible for redacting or otherwise protecting any identifying/other information that is written on a Secret Ballot, or other categories of Association Election Materials, by a Member.
- 14.9 **Election Materials Inspection.** Only one person at a time may review, inspect, or recount the original Association Election Materials. No copies may be made of the outer mailing Envelopes (#2). Mobile phones and cameras are not permitted in the room at the time of the inspection, review, or recount. Only the paper and markers provided by the Association may be used to take any notes.
- 14.10 **Election Materials Related Rules and Costs.** The Association or the professional Inspector may establish any additional rules and procedures for the review and recount

by Members, and a charge or cost may be imposed to be payable by the Members in advance for the time of persons to observe and monitor the review or recount.

**15. ACCESS TO ASSOCIATION FACILITIES & COMMUNICATIONS, USE OF ASSOCIATION FUNDS, CANDIDATE SIGNAGE**

- 15.1 **Equal Access Requirements.** 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.
- 15.2 **Candidate Materials.** 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.
- 15.3 **Candidate Association Resource Access.** Access to common area meeting spaces, to the extent such exist, 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.
- 15.4 **Candidate Signage.** Candidates and Members are entitled to erect one campaign sign per candidate on their Lot in conformance with provisions set out in the current Association's *Rules and Regulations*.

THE FOREGOING ASSOCIATION MEMBERSHIP MEETING AND VOTING RULES WERE ADOPTED on July 8, 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:   
Tony Michaelis, President

Date: July 8, 2022

Notice of Association Rules adoption was provided to the Membership within fifteen (15) days of the adoption date.

**ATTESTED TO:**

By:   
Tom Tousignant, Secretary

Date: July 8, 2022