

## **PACIFIC HIGHLANDS RANCH NORTH MASTER ASSOCIATION VOTING AND ELECTION PROCEDURES**

### **INTRODUCTION**

Associations must conduct homeowner votes on various issues by means of a statutorily-defined secret ballot and by other procedures. The provisions of the law are found in Civil Code Sections 5100 and related statutes. Generally, the statutes provide, among other things, that certain homeowner votes must be held by using a double-envelope ballot system, which ballots may be cast in person or by mail, and that an Inspector (or Inspectors) of Election shall be appointed to receive, open, and tally the ballots, among other functions. Associations must adopt voting and election procedures to implement the statutory requirements. Unless the context notes otherwise, all capitalized terms below have the same definition as set forth in the CC&Rs.

### **GENERAL**

1. These procedures shall apply to all items requiring a vote of the Membership under Civil Code Sections 5100 and related statutes including but not limited to, elections of directors, all votes to remove one or more directors, all votes on assessments, amendments of the Governing Documents (when required by law), and grants of exclusive use of common areas. They also apply to other votes the Board determines should be conducted by secret ballot or that might be required by law to be held pursuant to these voting rules. As explained below, a secret written ballot will be used for such votes. (Bylaws sections 3.10, 4.5, and 9.1.) In an election to approve an amendment of the Governing Documents, the text of the proposed amendment shall be delivered to the Members with the ballot.
2. As described in these rules, votes may be cast by Members either via mail or in person.
3. The Association shall hold an election for a seat on the Board of Directors in accordance with the procedures set forth in Civil Code section 5100, and related statutes, at the expiration of a director's term and at least once every four years.
4. The Board may fix, in advance, a date as the record date for determining which Members are entitled to notice of a meeting of Members. Such "notice" record date shall be not more than ninety (90) nor less than sixty (60) days before the date of the meeting. If no "notice" record date is fixed, the record date for notice is the close of business on the business day preceding the day on which notice is given. The Board may fix, in advance, a date as the record date for determining which Members are entitled to vote at a meeting of Members. Such "voting" record date shall be not more than sixty (60) nor less than thirty (30) days before the date of the meeting. If no "voting" record date is fixed, Members who are otherwise eligible to vote when ballots are mailed are entitled to vote at the meeting. (Bylaws, section 3.8.) If no "voting" record date is fixed, Members who are otherwise eligible to vote are entitled to vote at the meeting. Nothing in this paragraph 4 relieves the Association from sending out the notices set forth in these procedures.

### **VOTING RIGHTS; DECLARANT'S RIGHT TO APPOINT DIRECTORS TO THE BOARD; SUSPENSION OF CERTAIN MEMBERSHIP RIGHTS**

5. (a) There are three (3) classes of voting membership. Class A Members shall be all Owners, with the exception of Declarant (Pardee Homes) and any Guest Builder (until the conversion of Class B membership to a Class A membership as provided below), and shall be entitled to one (1) vote for each Residential Lot owned. When more than one (1) Person holds an interest in any Residential Lot, all such Persons shall be Members. The vote for such Residential Lot shall be exercised as they

among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Residential Lot. (CC&Rs, section 5.2.1; see also paragraph 25(e) regarding joint owner voting.) The Class B Member shall be Declarant and each Guest Builder. Declarant shall be entitled to cast three (3) votes for each Residential Lot owned by Declarant and Guest Builder(s), if such Guest Builder has assigned its voting rights to Declarant in a Phase for which Assessments have commenced. If a Guest Builder has not assigned its voting rights to Declarant, the Guest Builder shall be entitled to three (3) votes for each Residential Lot owned by the Guest Builder. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earliest:

- (1) When a total of seventy-five percent (75%) of the Residences proposed to be developed in the overall Community (i.e., currently estimated to be six hundred seventy-five (675) Residences) have been conveyed to First Purchasers;
- (2) On the fifth (5th) anniversary following the most recent conveyance to a First Purchaser in any Phase of the overall Community; or
- (3) On the twenty-fifth (25<sup>th</sup>) anniversary of the first conveyance to a First Purchaser in the overall Community. (CC&Rs, section 5.2.2.)

(b) As long as Class B Membership exists, no action by the Association that must have the prior approval of the Association Members shall be deemed approved by the Members unless approved by the appropriate percentage of Class A and Class B Members, except as otherwise set forth in the CC&Rs. Upon conversion to a single Class A voting membership, any action by the Association that must have the prior approval of the Members will require approval by at least a majority of the Members of the Association including at least a majority of Members other than Declarant and any Guest Builder. (CC&Rs, section 5.2.2; see also paragraph 33(a) below.)

(c) The Class C Member shall be Declarant (whether or not Declarant is an Owner). The Class C membership shall not be considered a part of the Voting Power of the Association and Declarant shall not be entitled to exercise any Class C votes except for the purpose of electing a majority of the members of the Community Board. The Class C Member shall be entitled to solely appoint a majority of the members of the Board until the date which is the earlier to occur of:

- (1) When a total of seventy-five percent (75%) of the Residences proposed to be developed in the overall Community (i.e., currently estimated to be six hundred seventy-five (675) Residences) have been conveyed to First Purchasers;
- (2) On the fifth (5th) anniversary following the most recent conveyance to a First Purchaser in any Phase of the overall Community; or
- (3) On the twenty-fifth (25<sup>th</sup>) anniversary of the first conveyance to a First Purchaser in the overall Community. (CC&Rs, section 5.2.3.)

(d) In any election of Directors after the Class B membership has been terminated, so long as Declarant or a Guest Builder owns any of the Property or the Annexable Property, at least one (1) Director may be selected by Declarant. A representative to the Board selected by Declarant pursuant to this section may be removed prior to the expiration of his or her term of office only with the consent of Declarant. (CC&Rs, section 5.3; see also paragraph 25(d).)

(e) The right of any Owner to vote as of the date ballots are mailed out may not be suspended for any reason. The right to run for the Board may be suspended for failure to pay Regular Assessments, Special Assessments, Capital Improvement Assessments, and/or Special Allocation Assessment for so long as the assessment(s) remains delinquent, that is, for the Owner being "not in good standing". An Owner's right to add his/her name to a petition may be temporarily suspended for

being not in good standing up to sixty (60) days or for so long as the Owner is in violation of the Governing Documents (CC&Rs, rules, etc.) or Board resolutions, whichever is longer. Before the Board makes a decision to temporarily suspend both or either membership right, the subject Owner shall be provided with Notice and a Hearing and an opportunity to be heard by the Board, orally or in writing, in accordance with the procedures set forth in Corporations Code Section 7341 and Civil Code Section 5855. (CC&Rs, section 4.3.3; Bylaws, section 3.18.) The Association shall send notice to the Owner of the date, time, and location of the hearing at least ten (10) days prior to the hearing, and such notice shall include a description of the alleged violation(s).

6. The Association shall retain, as Association election materials, both a candidate registration list and a voter list. The voter list shall include name, voting power, and either the physical address of the voter's Residential Lot, the parcel number, or both. The mailing address for the ballot shall be listed on the voter list if it differs from the physical address of the voter's Residential Lot or if only the parcel number is used. The Association shall permit Members to verify the accuracy of their individual information on both lists at least 30 days before the ballots are distributed. The Association or Member shall report any errors or omissions to either list to the Inspector(s) of Election who shall make the corrections within two business days.

**QUALIFICATIONS TO SERVE ON BOARD OR OTHER ELECTED POSITION; CONTINUED  
SERVICE ON BOARD IF ELECTED; NOMINATION OF CANDIDATES**

7. (a) Election and service on the Board is subject to these rules and the Association Governing Documents (CC&Rs, Bylaws, rules, etc.) The same applies to any other elected position. (Hereafter, "election to the Board" or words of similar effect refers to any position subject to election by the Owners.) The affairs of the Association shall be managed by a Board of five (5) directors who must be Members of the Association (other than directors appointed by Declarant which must be representatives of Declarant elected to the Board). (Bylaws, section 4.3.) At the First Membership Election, the Declarant shall appoint three (3) of the five (5) directors using its Class C membership and the Class A Members (excluding Declarant) shall elect the remaining two (2) directors by secret ballot. (The Class B Member(s) shall not be entitled to vote for directors at the First Membership Election.) The candidates receiving the highest number of Class A votes shall be deemed elected. The directors appointed by Declarant shall serve for a term of three (3) years and the director(s) elected by the Class A Members shall serve for a term of two (2) years. After the expiration of the initial terms, all directors' terms shall be two (2) years. Successor directors shall be elected annually to replace those directors whose terms expire. Upon expiration of the initial three-year terms of the Declarant-designated directors, all directors shall be elected by the Members. All directors shall hold office until their respective successors are elected. Except as otherwise provided in the CC&Rs and the Bylaws, elections to the Board shall be in accordance with the provisions of the Corporations Code and Civil Code. (Bylaws, section 4.5.)

(b) The Association shall disqualify a person from nomination as a candidate for not being a Member of the Association at the time of the nomination. If title to a Residential Lot is held by a legal entity that is not a natural person, the governing authority of that legal entity shall have the power to appoint a natural person to be a Member for purposes of voting, nomination to, and service on the Board. No other persons may serve on the Board except as set forth herein. All candidates who are "in good standing" may run for the Board. This means that the relevant Residential Lot is not delinquent in the payment of any Regular Assessments, Special Assessments, and/or Capital Improvement Assessments. A finding of "not in good standing" can only be made following appropriate notice and a hearing held as provided in paragraph 5(e) above. The requirement of being current, that is, not delinquent, in the payment of regular and special Assessments also applies to the directors during their Board tenure.

8. A nominee shall not be disqualified for failure to be current in payment of Regular and Special assessments if either of the following circumstances is true:

(a) The person has paid the regular or special assessment under protest pursuant to Civil Code section 5658;

(b) The person has entered into a payment plan pursuant to Civil Code section 5665.

The Association shall not disqualify a person from nomination if the person has not been provided the opportunity to engage in internal dispute resolution pursuant to Civil Code section 5900 and related statutes. The Association may not disqualify a nominee for nonpayment of fines, fines renamed as assessments, collection charges, late charges, or costs levied by a third party.

9. A person may not be a candidate 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 Residential Lot as the person and the other person is either properly nominated for the current election or an incumbent director. If two or more such persons from the same Residential Lot are nominated, then none of them will be a candidate, and it falls to them to resolve among themselves whether only one person will remain nominated. If the issue is not resolved by the announced deadline for nominations, no Owners from that Residential Lot will appear on the printed ballot.

10. A person may not be a nominee if that person discloses, or if 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.

11. The Association shall provide general notice of the procedure and deadline for submitting a nomination at least 30 days before any deadline for submitting a nomination. Individual notice shall be delivered pursuant to Civil Code section 4040 if individual notice is requested by a Member. All persons entitled to run for the Board, as set forth in paragraph 7 above, may complete a Candidate's Form, or similarly named form for nomination, and return the completed form to the designated person(s) on or before the deadline noted on the form or accompanying materials. Persons failing to submit a Candidate's Form by the deadline will not have their names placed on the ballot. However, nominations may be made from the floor at the annual/membership meeting (Bylaws, section 4.4), and such candidate's name may be written-in on the ballot. Unannounced write-in candidates may receive votes but not cumulatively. (See paragraph 25(d).) Every Owner may self-nominate and may nominate another Owner to the Board. When an Owner is nominated by another Owner, the proposed nominee must accept the nomination before the established deadline in order for his/her name to appear on the pre-printed ballot. Because the time between nomination of another and the deadline for acceptance of the nomination might be limited, the nominating Owner should contact the proposed nominee so that the latter may communicate acceptance of the nomination to the Association prior to the established deadline. Nominations may also be made using the nominating committee procedures set forth in Bylaws, section 4.4.

12. The Association will distribute the completed Candidate Forms in the same membership meeting packet as the ballots so long as the forms were submitted before the deadline, will not edit the content of these forms, and may publish a general statement of non-responsibility for their content. Any candidate can request in writing that his/her form not be published, and the Association will honor any such request if received prior to the date of publication of the forms.

## **USE OF ASSOCIATION MEDIA AND USE OF COMMON AREA FACILITIES FOR CAMPAIGN PURPOSES; PROHIBITION OF ASSOCIATION FUNDS FOR CAMPAIGN PURPOSES**

13. Normally, the Association will not include any Candidate's Form or other editorial or campaign material in any Association newsletter or other media. However, if any candidate or Member advocating a point of view is provided access to Association media, newsletters, or internet websites during a campaign for purposes that are reasonably related to that election/vote, equal access shall be provided to all candidates and Members advocating a point of view, including those not endorsed by the Board, for purposes that are reasonably related to the election. The Association shall not edit or redact any content from these communications but may include a statement specifying that the candidate or Member, and not the Association, is responsible for that content. Candidates' and Members' use of email to communicate with other Member-Owners is not Association media and is the independent communication of such persons over which the Association has no control.

14. All Members and candidates for election, and/or anyone who advocates a point of view on an issue subject to a vote, shall have access to the common area meeting spaces during a campaign, at no cost, for purposes reasonably related to that election/vote. Reservations can be made by contacting the management company. Promotion of commercial/business services during a campaign is not a purpose reasonably related thereto.

15. Association funds shall not be used for campaign purposes in connection with any Board election or any other Association election except to the extent necessary to comply with duties of the Association imposed by law. As used herein, "campaign purposes" include, but is not limited to, the following:

(a) expressly advocating the election or defeat or any candidate that is on the Association election ballot; and

(b) including the photograph or prominently featuring the name of any candidate on a communication from the Association or the Board, excepting the ballot, balloting materials, or any communication that is legally required, within thirty (30) days of an election; provided however that it is not a campaign purpose if the communication is one required by law regarding equal access to all candidates and advocates.

## **INSPECTORS OF ELECTION**

16. The Board will appoint one (1) or three (3) Inspectors of Election (Inspector(s)), at its discretion, to oversee and certify the results of the voting. Unless it makes a finding that three inspectors are necessary, the Board will normally designate one (1) Inspector. The Inspector may appoint and oversee additional persons to verify signatures and to count and tabulate votes as he/she deems appropriate, provided that the persons are independent third parties.

17. An Inspector may not be a Board Member, a candidate for election, be related to or reside with a Board Member or candidate for election, and may not be a co-Owner of any such person. An Inspector may not be a person, business entity, or subdivision of a business entity who is currently employed or under contract to the Association for any compensable services other than serving as an Inspector. If not Members of the Association, Inspectors may be compensated for their services. Members of the Association shall not be compensated for serving as Inspectors or for assisting any Inspector. An Inspector will faithfully perform his/her responsibilities so as to ensure that the announced results of the voting and/or election represent the true and honest votes of the Members casting ballots.

18. The Inspector shall do the following:

(a) Deliver, or cause to be delivered, at least 30 days before an election, to each Member both of the following documents:

(i) the ballot or ballots, and

(ii) a copy of the election operating rules. Delivery of the election operating rules may be accomplished by either of the following methods:

(A) posting the election operating rules to an internet website and including the corresponding internet website address on the ballot together with the phrase, in at least 12-point font:

“The rules governing this election may be found here: [Insert webpage]”

(B) individual delivery as defined in Civil Code section 4040.

- (b) Determine the number of Memberships entitled to vote and the voting power of each;
- (c) Determine the authenticity, validity and effect of proxies, if any;
- (d) Receive the ballots;
- (e) Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote;
- (f) Count and tabulate all votes;
- (g) Determine when the polls shall close, consistent with the Governing Documents;
- (h) Determine the tabulated results of the election;
- (i) Perform such other acts as may be proper to conduct the election with fairness to all Members in accordance with Civil Code section 5100 and related statutes, the Corporations Code, and all applicable rules of the Association not in conflict with the law;
- (j) Promptly report the results of the election to the Board (see paragraph 36) but no later than 10 days of the date the polls close; and
- (k) Any other functions incidental to the above.

19. The Inspector shall perform all duties impartially, in good faith, to the best of the Inspector's ability, as expeditiously as is practical, and in a manner that protects the interest of all Members of the Association. If there are three Inspectors, the decision or act of a majority shall be effective in all respects as the decision or act of all. Any report made by the Inspector is prima facie evidence of the facts stated in the report.

20. The Board shall have the authority to remove and/or replace an Inspector at any time if an Inspector resigns or whenever the Board determines that an Inspector will not be able to perform his/her duties impartially and in good faith or if the Inspector ceases to meet the qualifications to serve as described above.

21. Management or the Board shall provide the Inspector with a Membership list accurate as of the record date for voting eligibility (see paragraph 4) and such other documents as may be necessary for the Inspector to verify the results of the vote.

22. Inspectors shall have the authority to consult with the Association's legal counsel in the event of uncertainties in the interpretation or application of Civil Code sections 5100 and related statutes, these rules, the Association's Governing Documents, or as might otherwise be necessary to ensure a fair election that complies with the law and the Governing Documents. All such consultations shall be protected by the Association's attorney-client privilege and shall be kept confidential from all persons other than the Board and management. However, no persons involved in such consultations shall disclose the identity of the voter of any particular ballot or proxy, should it be discovered in handling such issues.

### **VOTING BY SECRET BALLOT**

23. Voting of Members regarding each of the following matters shall be by secret ballot in accordance with the requirements of Civil Code Section 5100, and related statutes: (i) an election regarding assessments; (ii) selection of Board Members; (iii) amendments to the Governing Documents; and (iv) the grant of exclusive use easements over Association Property pursuant to Civil Code Section 4600. (Bylaws sections 3.10, 4.5, and 9.1.) In the announcement of any meeting at which an election will be held or other balloting conducted, the Association shall announce the applicable voting period, including any deadline for submission of ballots. The Inspector shall determine when and where ballots can be submitted and the time when the polls shall open and close at any meeting at which ballots are cast. The Inspector shall have the right, but not the obligation, to extend any voting deadline established for the return of ballots whenever the number of ballots is, or may be, insufficient to establish a quorum. Votes may be cast in person or by secret written ballot only.

24. A ballot shall not be denied to a Member for any reason other than not being a Member at the time when ballots are distributed. A ballot shall not be denied to a person with general power of attorney for a Member. The ballot of a person with general power of attorney for a Member shall to be counted if returned in a timely manner.

25. Ballots may be submitted at any time from the Members' receipt of the ballot until the announced deadline or any extension thereof as provided by the Inspector. Ballots returned by mail are to be returned to the Inspector as noted in the balloting materials.

(a) The Inspector shall have the right to review the number of ballots collected prior to the deadline for voting and inform the Board of the number of ballots received. Voting envelopes shall not be opened as part of this review - only a review of unopened envelopes is allowed to determine the total number of votes cast.

(b) Once cast, secret ballots cannot be revoked or changed, not even if the Owner attends the meeting and seeks to change or withdraw his or her vote before the polls close.

(c) Normally, the Association will not distribute any proxies. Members may vote on the distributed ballots via mail without having to attend the meeting in person.

(d) Members are entitled to vote as set forth in paragraph 5(a) above. Election to and removal from the Board shall be by cumulative voting as defined in Corporations Code section 7615, subject to all applicable requirements of the Corporations Code and Civil Code. Each

Member shall be entitled to vote, in person or by proxy, as many votes as such Member is entitled to exercise as provided in the Governing Documents multiplied by the number of directors to be elected or removed, and he/she may cast all of such votes for or against a single candidate or director, or such Member may distribute them among the number of candidates or directors to be elected or removed, or any two or more of them, but no fractions or decimals may be used in voting, e.g., no .25 or 1/4th of a vote for a candidate. The candidates receiving the highest number of votes up to the number of directors to be elected shall be deemed elected. As to removal, unless the entire Board is removed by a vote of the Members, an individual director shall not be removed prior to the expiration of his/her term of office if the votes cast against removal would be sufficient to elect the director if voted cumulatively at an election at which the same total number of votes were cast and the entire number of directors authorized at the time of the most recent election if the Board members were then being elected. (Bylaws, section 3.10.) Provided, however, if a special meeting is called to remove a director appointed by Declarant pursuant to Section 4.5 of the Bylaws or elected by Declarant using its Class B voting power, then no such director shall be removed without the consent of Declarant; provided, further, that the directors appointed by Declarant at the First Membership Election may be removed and replaced by Declarant, in its sole discretion. (Bylaws, section 4.6; see also paragraph 5(d).) A Member may cumulate his/her vote for one or more candidates, as explained above, if the candidate's name has been placed in nomination prior to voting and if the Member has given notice at the meeting prior to the voting of his/her intention to cumulate votes. Notice is given by way of these Voting and Election Procedures of every Member's intention to use cumulative voting. Cumulative voting may not be used for a candidate whose name has not been placed in nomination prior to the voting. Thus, the candidate must be on the pre-printed ballot or must have been nominated from the floor and then written in as a candidate. (See paragraph 11 above.) An unannounced write-in candidate may not receive votes cumulatively but may receive a vote non-cumulatively, i.e., no more than one vote per candidate.

(e) If there is more than one Owner of a Residential Lot, the voting rights for such Residential Lot may not be cast on a fractional basis. If the joint Owners of a Residential lot are unable to agree among themselves as to how their voting rights shall be case, they shall forfeit the vote on the matter in question. Upon the close of escrow on a Residential Lot by more than one Owner, the Owners of such Residential Lot must notify the Association in writing of the one Owner who will exercise the voting rights for such Residential Lot ("Voting Owner"). In the event such Owners do not notify the Association in writing in accordance with this section, the Owner shall not be entitled to exercise their vote in writing unless and until they deliver written notice to the Association designating the Voting Owner and until such designation is made, the Association can cast the vote, if it so elects, for such Residential Lot. If the Owners desire to designate a different Voting Owner, such request to change the Voting Owner must be made in writing to the Association. If any Owner other than the Owner designated in the records of the Association as the Voting Owner exercises the voting rights of a particular Residential Lot, such vote shall not be counted and shall be deemed void. (CC&Rs, section 5.4; see also paragraph 5(a) above.)

26. The Association shall provide general notice of all of the following at least 30 days before the ballots are distributed:

- (a) The date and time by which, and the physical address where, ballots are to be returned by mail or handed to the Inspector(s) of Elections.
- (b) The date, time, and location of the meeting at which ballots will be counted.
- (c) The list of all candidates' names that will appear on the ballot.



Individual notice of the information in this paragraph shall be delivered pursuant to Civil Code section 4040 if individual notice is requested by a Member.

27. Ballots and two envelopes with instructions on how to return the ballots shall be mailed by first-class mail or delivered by the Association to every Member not less than 30 days prior to the deadline for voting. In order to preserve confidentiality, a voter will not be identified by name, address, parcel, or Residential Lot number on the ballot. The Association shall generally use as a model those procedures used by California counties for ensuring confidentiality of vote by mail ballots, including the following:

(a) The ballot itself is not to be signed by the voter but will be inserted into an envelope that is to be sealed by the voter. This inner envelope is not to have any identifying information on it and will be inserted into a second (outer) envelope, i.e., the return mail envelope, that is also sealed by the voter. In the upper left-hand corner of the second envelope, the voter must print and sign his or her name, and indicate the address of his/her Residential Lot number that entitles him/her to vote.

(b) The second (outer) envelope is to be addressed to the Inspector who will be tallying the votes. Ballots must be returned in the official envelopes provided in the mailing or they might not be counted. The envelopes are to be mailed or delivered by hand to the location specified by the Inspector(s). The Member may request a receipt for delivery.

(c) Balloting materials not completed in accordance with the instructions on or accompanying the balloting materials may result in the ballot being declared invalid, as determined by the Inspector(s).

28. Once a secret ballot is received by the Inspector, it is irrevocable. The ballots shall be counted at the designated meeting if a quorum is established or at a reconvened meeting, if necessary. Each ballot received by the Inspector shall be treated as a Member present at the meeting for purposes of establishing a quorum.

### **PROXIES**

29. At all meetings of Members each Member may be present in person or by a representative, known as a proxy, duly authorized by an instrument in writing, executed by such Member and filed with the Secretary of the Association prior to the meeting to which it is applicable. Proxies shall specify the person or persons authorized to exercise the proxy and the length of time the proxy will be valid. Any proxy or written ballot distributed by any person to the membership of the Association shall afford the opportunity to specify a choice between approval or disapproval between each matter or group of matters to be acted upon, and where the Member specifies a choice, the vote shall be cast in accordance with that choice. It is not mandatory that a candidate for election to the Board be specifically named in the proxy or written ballot. All proxies shall be revocable at any time by written notice to the Secretary of the Association or by attendance in person by such Member at the meeting for which such proxy was given and all proxies shall automatically cease when the ownership interest or interests of the Member entitling such Member to membership in the Association ceases. In any event, no proxy shall be valid after the expiration of eleven (11) months from the date of the proxy, unless otherwise provided in the proxy, except that the maximum term of any proxy shall be three (3) years from the date of execution. Such powers of designation and revocation may be exercised by the guardian of any such Member's estate or by such Member's conservator, or in the case of a minor having no guardian, by the parent entitled to such minor's custody, or during the administration of any

such Member's estate, by its executor or administrator where the latter's interest in such property is subject to administration in the estate. (Bylaws, section 3.11.)

30. Proxies shall consist of two separate parts: 1) the designation of the proxyholder coupled with the scope and effective dates of the proxy; and 2) the instructions to the proxyholder on how to vote. Any instructions given in a proxy issued for an election that directs the manner in which the proxyholder is to cast the vote shall be set forth on a separate page of the proxy that can be detached and given to the proxyholder to retain. The voting instructions given in a proxy are not to be returned to the Association. However, should the proxy giver so direct, the voting instructions will be given to the proxyholder when the proxyholder signs in at the meeting. Members acknowledge that returning voting instructions on a proxy to the Association might result in Association representatives or the Inspector(s) seeing how the Member instructs his/her proxyholder to vote. The proxyholder shall cast the Member's vote by secret ballot. The instructions to the proxyholder shall not be counted as a ballot.

31. Proxies are to be returned to the Association's Secretary via the management company or other designated recipient/addressee as may be designated prior to any deadline, if any, set by the Board for the return of proxies. Proxies received after the deadline shall not be counted but may be allowed at an adjourned and reconvened meeting as determined by the Inspector(s). The management company or other designated representative of the Inspector(s) shall register proxies received by the Association and shall report any noted problems to the Inspector(s).

### **QUORUM; ELECTION RESULTS; COST CENTERS; MISCELLANEOUS**

32. Except where a higher quorum is required in the CC&Rs and/or Civil Code Sections 4230(d) and 5605(c) (see CC&Rs, section 6.10.1) and Corporations Code sections 7510 and related statutes, and section 7613, the presence at any meeting in person or by proxy of Members entitled to cast at least twenty-five percent (25%) of the total Voting Power of all Members of the Association who are entitled to vote on the business to be transacted shall constitute a quorum. No business other than to adjourn the meeting can be conducted at a meeting of the Members unless a quorum is present. If any meeting cannot be held because a quorum is not present, Members representing a majority of the votes present, either in person or by proxy, may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time the original meeting was called, at which adjourned meeting the quorum requirement shall be at least twenty-five percent (25%) of said total Voting Power. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to the Members in the manner prescribed for annual meetings. Any meeting of Members where a quorum is present may be adjourned for any reason to a time not less than forty-eight (48) hours nor more than thirty (30) days from the time of such meeting by Members representing a majority of the votes present thereat, either in person or by proxy; provided however, that the only matters that may be voted upon at any meeting attended, in person or by proxy, by less than one-third (1/3) of the total Voting Power of the Members are matters for which notice of the general nature of such matters was provided to the Members in the notice of the meeting. (Bylaws, section 3.9.)

33. (a) Except as otherwise provided in the Governing Documents, all matters requiring the approval of Members shall be deemed approved if: (a) Members holding a majority of the total Voting Power consent to them in writing as provided in the Bylaws; (b) such matters are approved by a majority vote of a quorum of Members at any regular or special meeting held in accordance with the Bylaws; or, (c) in certain situations set forth in CC&Rs, section 4.4, such matters as are approved in accordance with the procedures set forth in section 4.4.5 of the CC&Rs. (CC&Rs, section 4.2.) Except as otherwise provided herein, in the CC&Rs, the Articles, or the Corporations Code, the majority of the total Voting Power present and voting, in person or by proxy, at a duly held meeting at which a quorum

is present, shall prevail. The Members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the total Voting Power required to constitute a quorum. (Bylaws, section 3.14; see also paragraph 5(b) above.)

(b) Notwithstanding any other provisions of the Governing Documents, any action expressly only for the benefit or a Cost Center or the Owners of Residential Lots within a Cost Center which requires a vote of the Members shall require the approval of the prescribed percentage of the class or classes of Members or the approval of Members other than Declarant (if applicable) of only those Owners within such Cost Center, except that if Civil Code sections 5600 and related statutes or any similar Applicable Laws requires the approval of all Owners, then this provision shall not apply. (CC&Rs, section 5.5.) If the Association forms any Cost Centers, the Association shall obtain the vote of a majority of the Owners of the Residential Lots benefited by the proposed Cost Center. Upon its approval, the Cost Center shall be described in a Supplementary Declaration recorded by the Association. (CC&Rs, section 6.9.) (See CC&Rs sections 4.6 and 5.5 regarding any required Declarant approval regrading Cost Centers.)

(c) Notwithstanding anything to the contrary in the CC&Rs, Article 5 thereof may not be amended without Declarant's prior written consent, so long as Declarant, any Declarant Party or Guest Builder owns any portions of the Property or the Annexable Property. (CC&Rs, section 5.6.)

34 Except for the meeting to count the votes required in Civil Code section 5120(a), an election may be conducted entirely by mail unless otherwise specified in the Governing Documents. Subject to reasonable restrictions established by the Inspector(s) to prevent interference with or intimidation of the Inspectors during the tabulation of the ballots, any candidate or other Member of the Association may witness the counting and tabulation of the votes. No person may communicate with, interfere with, or in any way attempt to intimidate, harass or abuse the Inspectors or other person counting the ballots or assisting the Inspectors.

35. Except as provided in paragraph 25(a), no person, including without limitation, a Member of the Association or an employee of the management company, shall open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated. At the request of the Inspectors and upon a showing of good cause, the Board may authorize a postponement or extension of the counting of the ballots to another date and time, which shall be open to the Membership. (This postponement/extension for counting is not to be confused with the Inspector's option to extend the voting deadline addressed in paragraph 23 above.) Among other possible circumstances, the inability to complete the counting of the ballots within two (2) hours of the close of the polls shall constitute good cause for a delay or extension of the counting of the ballots. In case of a delay or extension of the time to complete the counting of the ballots, the Inspectors shall retain custody of all ballots.

36. The results of the election shall be promptly reported to the Board and shall be recorded in the minutes of the next meeting of the Board and shall be available for review by Members of the Association. Within 15 days of the election, the Board shall give general notice pursuant to Civil Code section 4045 of the tabulated results of the election.

37. The sealed ballots, signed voter envelopes, voter list, proxies, and candidate registration list shall at all times be in the custody of the Inspector(s) or at a location designated by the Inspector(s) until after the tabulation of the vote, and until the time allowed by Civil Code section 5145 for challenging the election has expired, i.e., until one year from the date that the Inspector(s) notifies the Board and Membership of the election results or the cause of action accrues, whichever is later. At that time,

custody shall be transferred to the Association. If there is a recount or other challenge to the election process, the Inspector(s) shall, upon written request, make the ballots available for inspection and review by an Association Member or the Member's authorized representative. Signed voter envelopes may be inspected but may not be copied. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.

These rules and procedures were adopted by the Board of Directors at a meeting held on May 12, 2020 and are effective as of the same date.

Dated: May 12, 2020

DocuSigned by:  
*Stacie Donahue*  
\_\_\_\_\_  
Stacie Donahue, President