

TERRA MAR HOMEOWNERS ASSOCIATION OPERATING RULES FOR ELECTIONS AND VOTING

SECTION 1 - GENERAL

These operating rules ("Rules") shall apply to all items legally requiring a vote of the membership as required by Civil Code section 5100, and any amendments thereto, including but not limited to, elections of directors, votes to remove one or more directors, votes on assessments that legally require a vote, amendments of the governing documents, grants of exclusive use of common areas, and such other votes as the Board determines should be conducted by secret ballot.

SECTION 2 - RIGHT TO VOTE

2.1 As described in these Rules, votes may be cast by members either in person, by proxy, or by mail-in ballot. The Association may not deny a ballot to any person who is a member of the Association at the time the ballots are distributed.

2.2 The Association may not deny a ballot to any person who has the general power of attorney for a member of the Association. Any person with a general power of attorney for a member must notify the Association and provide a copy of a valid general power of attorney to verify the person's right to vote on behalf of the member. If a ballot from a person with a valid general power of attorney which has been provided to the Association returns a ballot within the timelines established for the return of all ballots, the ballot shall be counted. (Civil Code § 5105(g))

2.3 The Association shall retain a voter list which shall include the name, voting power, and either the physical address of the voter's Lot, parcel number, or both ("Voter List"). The mailing address for the ballot(s) shall be listed on the Voter List if it differs from the physical address of the voter's Lot or if only the parcel number is used. The Association shall permit members to verify the accuracy of their individual information on the Voter List at least thirty (30) days before the ballots are distributed. The Association or member shall report any errors or omissions on the Voter List to the Inspector(s) of Election who shall make the corrections within two (2) business days. (Civil Code § 5105(a)(7))

SECTION 3 - QUALIFICATION OF NOMINEES FOR DIRECTOR ELECTIONS

3.1 Only persons who are members of the Association may be a nominee for election. If title to a 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 being a nominee for election to the Board.

3.2 No member may be a nominee if the member, if elected, would be serving on the Board at the same time as another member who holds a joint ownership interest in the same Lot and the other member is either properly nominated for the current election or an incumbent director.

3.3 No one who has been a member of the Association for less than one (1) year may be a nominee.

3.4 No member may be a nominee if that member discloses, or if the Association is aware or becomes aware of, a past criminal conviction that would, if the member 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. The Association shall have no obligation to investigate the background or possible criminal history of any candidate.

3.5 A member who is more than thirty (30) days delinquent in the payment of annual and special assessments (not including nonpayment of fines, fines renamed as assessments, collection charges, late charges, or costs levied by a third party) is not qualified to be a nominee. Likewise, directors shall not be more than thirty (30) days delinquent in the payment of annual and special assessments. A member shall not be disqualified for failure to be current in payment of annual and special assessments if either of the following circumstances is true:

3.5.1 The member has paid the annual or special assessment under protest pursuant to Civil Code section 5658.

3.5.2 The member has entered into a payment plan pursuant to Civil Code section 5665.

3.6 Prior to disqualifying any member from being a nominee, the Association must offer the member an opportunity to engage in internal dispute resolution pursuant to Civil Code section 5900 et seq.

SECTION 4 - NOMINATION OF DIRECTORS

4.1 The Association shall provide general notice of the procedure and deadline for submitting a nomination at least thirty (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.

4.2 The Association shall seek nominations for candidates for election by making available a "Candidate Nomination Form". All members desiring to run for a position on the Board of Directors or members who wish to nominate other members must complete the Candidate Nomination Form and return the completed Candidate Nomination Form and any accompanying materials to the Association within the time prescribed on the Candidate Nomination Form. If nominating another member, that nominee's written consent is required and must be returned with the Candidate Nomination Form. A Nominating Committee shall also solicit eligible candidates.

4.3 The Association shall retain a candidate registration list and shall permit members to verify the accuracy of their individual information on the candidate registration list at least thirty (30) days before the ballots are distributed. The Association or member shall report any errors or omissions on the candidate registration list to the Inspector(s) of Election who shall make the corrections within two (2) business days. (Civil Code § 5105(a)(7))

4.4 The Candidate Nomination Form submitted by each candidate may be posted on the Association's website, published in the Association's newsletter and/or posted on the Association's bulletin board(s). The Candidate Nomination Form submitted by each candidate may be enclosed with the ballot for the election and mailed at least thirty (30) days prior to the meeting. Candidate Nomination Forms and accompanying materials that are received after the time prescribed on the Candidate Nomination Form may not be enclosed with the ballot for election, posted on the Association's website, published in the Association's newsletter, or posted on the Association's bulletin board(s). The Association will not edit the content of these forms, but will publish a general statement of non-responsibility for the content of all published forms. Any candidate can request in writing that his/her form not be published as provided herein and the Association will honor any such request received prior to the date of publication of all forms if publication occurs.

4.5 Except as provided in Paragraph 4.4, no Candidate Nomination Form or other editorial or campaign material will be published in the Association's newsletter or other Association media.

4.6 The Board of Directors will appoint a Nominating Committee consisting of a chairperson, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee will perform its duties as outlined in the By-Laws and/or Association published Rules and Regulations. Note, however, that a member may nominate himself or herself as set forth in Paragraph 4.2, above, or Paragraph 4.7, below.

4.7 Nominations for election to the Board of Directors may also be made from the floor during the meeting of the membership or the Board. A nomination from the floor is not a condition for candidates to receive write-in votes.

SECTION 5 - USE OF COMMON AREA FACILITIES FOR CAMPAIGN PURPOSES

5.1 In each election of Directors, the Board may hold a candidate's forum in the Terra Mar Clubhouse, located at 3667 Via Del Sur, prior to the election where members will be provided an opportunity to meet and ask questions of the candidates. All candidates known to be standing for election will be invited to attend the forum. Attendance by the candidates is optional.

5.2 All candidates for election and other members may reserve the Terra Mar Clubhouse, located at 3667 Via Del Sur, or other Association facility to conduct campaign activities or advocate a point of view on an election or balloting issue pending before the membership. All candidates and members will be provided an equal opportunity to reserve the Association's facilities for these purposes. Reservations can be made by contacting the management company. No fees will be charged to any candidate or member for reservation of any common area facilities to conduct campaign activities or advocate a point of view on an election or balloting issue pending before the membership. All candidates or members reserving the common area facility are asked to leave the facility in a clean and undamaged condition.

SECTION 6 - VOTING BY SECRET BALLOT

6.1 Pursuant to Civil Code section 5100, elections regarding the following topics must be conducted by double envelope secret ballots pursuant to Civil Code section 5115: Assessments legally requiring a vote, election and removal of directors, amendments to the governing documents, the grant of exclusive use of common area, or any other topic expressly identified in the Association's operating rules. The Board has the right to determine whether other topics requiring a membership vote will be conducted using double envelope secret ballots.

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

6.2.1 The date and time by which, and the physical address where, ballots are to be returned by mail or handed to the Inspector or Inspectors of Elections.

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

6.2.3 The list of all candidates' names that will appear on the ballot.

6.2.4 Individual notice of (1) through (3) above shall be delivered pursuant to Civil Code section 4040 if individual notice is requested by a member. (Civil Code § 5115(b))

6.3 Ballots may be submitted at any time from the members' receipt of the ballot until the announced deadline or any extension thereof as set by the Inspector(s) of Elections. Ballots returned by mail are to be returned to the address specified by the Inspector(s) of Elections and so noted in the balloting materials.

6.3.1 The Inspector(s) of Elections shall have the right to verify the member's information and signature on the outer envelope and to review the number of ballots collected prior to the deadline for voting and inform the Board of Directors of the number of ballots received. The Inspector(s) of Elections shall have the right to extend the voting deadline if there is an insufficient or possibly an insufficient number of ballots received. Voting envelopes shall not be opened as part of this review - only a review of unopened envelopes is allowed to verify the member's information and determine the total number of ballots returned.

6.3.2 Once cast, ballots cannot be revoked or changed, even if the member attends the meeting and seeks to change or withdraw his or her vote before the polls close.

6.3.3 The Board of Directors shall set a record date establishing those members entitled to vote on any ballot. Should the Board fail to set a specific record date, the record date shall be the date the ballot was posted in the United States mail unless specified otherwise in the Association's governing documents.

6.3.4 In accordance with the governing documents of the Association, members shall be entitled to one vote per Lot, except in the election of directors where cumulative voting is allowed. Cumulative voting for directors shall be required in any secret ballot for the election of more than two (2) directors.

6.4 Ballots and two pre-addressed envelopes with instructions on how to return ballots shall be mailed by first-class mail or delivered, or caused to be mailed or delivered by the Inspector(s) of Elections to every member at least thirty (30) days prior to the deadline for voting. For the election of directors, ballots and voting envelopes will also be distributed at the annual membership meeting. The Association shall generally use as a model those procedures used by California counties for ensuring confidentiality of voter absentee ballots, including the following:

6.4.1 The ballot itself will not be signed by the voter, but will be inserted into an envelope that is to be sealed by the voter. This envelope is to be inserted into a second (outer) envelope that is sealed by the voter. In the upper left-hand corner of the second envelope, the voter must print and sign his or her name, address (either address within the community or mailing address), and lot or parcel number that entitles him or her to vote. The lack of a signature on the second envelope will not invalidate that ballot if the Inspector(s) of Elections is able to determine the member who submitted the ballot.

6.4.2 The second (outer) envelope is to be addressed to the Inspector(s) of Elections, who will be tallying the votes. The envelopes are to be mailed or delivered by hand to the address specified by the Inspector(s) of Elections.

6.4.3 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) of Elections. The Inspector(s) of Elections shall have the right to count ballots submitted by members failing to complete all of the above requirements so long as all ballots with similar defects are treated equally and so long as the Inspector(s) are able to verify that only one ballot per voting member has been submitted.

6.4.4 Only the official ballots distributed by the Association will be counted. Unofficial ballots will not be counted.

6.4.5 If a candidate whose name is on the ballot withdraws before the ballots are counted, the election will continue to go forward. However, the votes cast for a withdrawn candidate will not be counted.

6.5 Ballots shall be counted at a membership meeting or open Board meeting. Subject to reasonable restrictions established by the Inspector(s) of Elections to prevent interference with or intimidation of the Inspector(s) 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 observing the tabulation of the ballots may communicate with, interfere with, or in any way attempt to intimidate, harass or abuse the Inspector(s) or other person counting the ballots or assisting the Inspector(s).

6.6 Except as provided above, no person, including 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.

6.7 The candidate(s) receiving the highest number of votes shall be elected. In the event of a tie vote between candidates for the last position on the Board, the candidates subject to the tie vote shall agree to some other means of determining the winner of the vote, such as a coin toss or high card draw.

6.8 The results of the election shall be promptly reported to the Board of Directors of the Association and shall be recorded in the minutes of the meeting and shall be available for review by members of the Association. Within fifteen (15) days of the election, the Board shall publicize the results of the election in a communication directed to all members or by posting it in the Common Area.

6.9 The Association election materials (returned ballots, signed voter envelopes, Voter List, proxies and the candidate registration list) will be retained by the Inspector(s) of Elections or the Inspector's/Inspectors' designee for one (1) year following the date the Inspector notifies the Board and the membership of the vote result unless the Inspector is notified of some challenge to the election after the notification of the election result. In this case, the Inspector or its designee shall retain these documents for one year from that later date. Thereafter, the Inspector(s) of Elections shall turn over those election materials to the Association or its designated agent. At the conclusion of the three-year period established by Civil Code section 5210, those election materials may, at the option of the Board of Directors, be destroyed.

6.10 The mailed secret ballots described in these Rules, once received by the Inspector(s) of Elections, will serve to establish a quorum at any meeting of members.

SECTION 7 - PROXIES

7.1 Voting by proxy will be permitted in accordance with the provisions of the By-Laws, although the Board of Directors need not prepare and distribute proxy forms with the election or voting materials. The Association will continue to honor proxies submitted in accordance with the By-Laws. Proxies submitted to and accepted by the Association must conform to the requirements of the law. Proxy holders will be given a secret ballot to complete. Proxies will not be counted as secret ballots.

SECTION 8 - INSPECTORS OF ELECTIONS

8.1 The Board of Directors will appoint one or three Inspectors of Elections to oversee and certify the results of the voting. Inspector(s) of Elections are to faithfully perform their

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.

8.2 Inspector(s) of Elections may not be Board members or a candidate for election or related to or reside with Board members or the candidates for election.

8.3 The Inspector(s) of Elections may not be a person, business entity, or subdivision of a business entity who is currently employed or under contract to the Association for compensable services other than serving as an Inspector of Elections.

8.4 Unless only outside consultants are engaged to serve as the Inspectors, at least one Inspector of Elections shall be a member of the Association, although all Inspectors of Elections may be members of the Association if so appointed by the Board of Directors. If not members of the Association, Inspectors of Elections may be compensated for their services. Members of the Association shall not be compensated for serving as Inspectors of Elections.

8.5 The Inspector(s) of Elections shall do all of the following:

8.5.1 Deliver, or cause to be delivered, a copy of these Rules at least thirty (30) days before an election. Delivery of these Rules may be accomplished by either of the following methods: (1) posting them 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:" or (2) individual delivery.

8.5.2 Determine the number of memberships entitled to vote and the voting power of each;

8.5.3 Determine the authenticity, validity and effect of proxies;

8.5.4 Receive the ballots and determine the location to which all ballots are to be returned;

8.5.5 Hear and determine all challenges and questions to the balloting or election;

8.5.6 Count and tabulate all ballots;

8.5.7 Determine when the polls shall close;

8.5.8 Determine the results of the election or balloting;

8.5.9 Report the tabulated results of the election or balloting promptly to the Board of Directors; and

8.5.10 Perform such other acts as may be necessary to conduct the election or balloting in fairness to all members and in accordance with applicable law and all rules of the Association.

8.6 The Inspector(s) of Elections may appoint additional persons to assist in performing any of the above duties. Any such persons shall meet the qualifications for appointment as an Inspector of Elections.

8.7 The Board of Directors shall have the authority to remove and/or replace an Inspector of Elections at any time if an Inspector resigns or whenever the Board determines that

an Inspector will not be able to perform his or her 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 interests of all members of the Association, or if the Inspector ceases to meet the qualifications to serve as described above.

8.8 Inspector(s) of Elections 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 section 5100 et seq., 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 of Directors. Note, however, that neither the Inspector(s) of Elections nor the Association's legal counsel shall disclose to others, including the Board, how a particular ballot was cast.

SECTION 9 - RECALL ELECTIONS

9.1 To initiate the recall of one or more directors or the entire Board, the Board must receive a written petition signed by at least five percent (5%) of the Association's Members calling for a special meeting for the recall election. The recall petition must also include the members' printed names and their Lot addresses for verification purpose. Pursuant to Corporations Code 7510(e), a vote for a recall may also be initiated by the Board.

9.2 Upon receipt of a valid recall petition, the Board will promptly appoint an Inspector(s) of Elections.

9.3 Within twenty (20) days of the Board's receipt of a valid recall petition, the Board will notice the Members of and will set the time, date, and location of the special meeting to hold the recall election.

9.4 The special meeting must be held between thirty-five (35) and ninety (90) days of the Board's receipt of the petition.

9.5 Any recall election as well as any election for the replacement directors must be conducted by secret ballot according to Paragraph 6.1. In an effort to avoid recalled directors remaining on the Board until replacement directors are elected, the election for replacement directors will be held at the same time as the recall vote. As such, the members will vote on two issues: (i) the recall of directors, and (ii) the replacement of directors. The Inspector(s) of Elections will tabulate the votes on the replacement of directors immediately following the recall vote, if the recall is successful.

9.6 Generally, when there is a recall election, it is desirable and often necessary to include an election of replacement directors on the same ballot as the recall vote. If the recall election is successful in whole or in part, the Association cannot be left without a functioning Board until a later election can be conducted. Given the statutory notice requirements for an election as outlined in these Rules, if the election to fill any vacancies created by a removal vote is not conducted at the same time as the recall vote, the Association could be left without a Board to conduct the necessary and essential business of the Association potentially causing great harm to the Association.

9.7 While Corporations Code section 7511(c) requires the Association to fix the date of the recall election not less than thirty-five (35) days, but not more than ninety (90) days after the Association's receipt of the request, the various notification requirements of Civil Code sections 5105(g)(4) and 5115(a)-(b) for the election of any replacement Directors make it difficult, if not impossible, for the Association to schedule the recall election meeting before the ninety (90)

day deadline of Corporations Code section 7511(c). In an effort to meet the ninety (90) day deadline of Corporations Code section 7511(c), the Association may shorten the deadline to submit the Candidate Nomination Forms as needed to comply with the requirements of Corporations Code section 7511(c) for the recall election.

9.8 In order to curb a potential superfluous use of Association funds, a recall election may not be initiated against a Board member(s) if the targeted Board member(s)'s term expires within one-hundred (100) days from the date the Board received the recall petition unless the recall petition is petitioning to recall the entire Board.

9.9 The Association may facilitate the production of and pay for the cost of all recall election materials and the mailing of the same. If, however, a valid recall petition is received by the Board within twelve (12) months from the date of a prior recall election, whether the prior recall election was successful or not, the Association may facilitate the production of all recall election materials and the mailing of same, but the cost of the recall election will be borne by the petitioning party.

SECTION 10 - ELECTION CHALLENGES AND BALLOT RECOUNTS

10.1 The Inspector(s) of Elections shall, upon written request, make the Association election materials (returned ballots, signed voter envelopes, Voter List, proxies and the candidate registration list) available for inspection and review by an Association member or the member's authorized representative should a member challenge the election or demand a ballot recount. Signed voter envelopes may be inspected but may not be copied pursuant to Civil Code section 5200(c).

10.2 Any recount will be conducted in a manner that preserves the confidentiality of the vote. To preserve the confidentiality of the vote, members will not be entitled to inspect the Inspector(s) of Elections tabulation documents or notes submitted to the Association.

10.3 Should a professional Inspector(s) of Elections act as the Association's Inspector(s) of Elections, the member or members challenging the election or demanding a recount of the ballot will bear the costs charged by the professional Inspector(s) of Election as a result of the election challenge and/or ballot recount. A professional Inspector of Elections is defined as an Inspector of Elections who may be compensated for their services pursuant to Paragraph 8.4.

SECTION 11 - MISCELLANEOUS

11.1 Other than the time frames set forth in Civil Code section 5100 et seq., the time frames stated in these Rules are guidelines, generally setting forth fair and reasonable procedures for the conduct of voting and elections. However, the failure of the Board or Inspector(s) to strictly adhere to these time frames will not invalidate any election or vote so long as the procedures used allow all members an equal opportunity to participate in the election or voting process and did not affect the results of the election.

11.2 At the discretion of the Board of Directors, the above Rules may be modified, delayed or repealed by the Board, in whole or in part, if the California State Legislature takes any action to change the content of Civil Code section 5100 et seq., which would affect said Rules.