

**ELECTION RULES
BEACHWALK HOMEOWNERS ASSOCIATION**

The following election rules are adopted to comply with the requirements of the Davis-Stirling Act and to provide for fair elections, subject to all applicable and enforceable: (a) provisions of law, and (b) Articles of Incorporation, CC&Rs, and Bylaws.

I. MEMBERSHIP MEETINGS

A. Meetings of the Membership.

1. **Annual Meetings.** There shall be an annual meeting each year for the purpose of electing or announcing the election of directors and conducting any other business of the association. The board shall fix the date and hour for holding such meetings as provided for in Paragraph 5 of the Declaration.

2. **Special Meetings.** Special meetings may be called by any of the following: (i) president of the board, (ii) majority of the board, or (iii) as required by law. If a special meeting is called by members of the association, the request shall be submitted to the board in writing, specifying the nature of the business to be transacted.

3. **Location of Meetings.** Meetings shall be held at a reasonable time, place and date within the County of Orange as may be designated by the board of directors.

B. Notice of Membership Meetings.

1. **Notice by Board.** Notice of all meetings of the members shall be given by the board. If the board fails to give notice, the persons calling the special meeting may give notice consistent with the governing documents and applicable law.

2. **Notice Period.** All notices shall be sent not less than ten (10) days before any regular meeting, and at least fifteen (15) days before any special meeting.

3. **Notice Contents.** The notice shall specify the place, date, and hour of the meeting and (i) in the case of a special meeting, the nature of the business to be transacted as specified by those persons calling the meeting (and that no other business may be transacted except as specified in the notice), or (ii) in the case of the annual meeting, those matters which the board intends to present for action by the members.

4. **Delivery.** Notice of any membership meeting shall be given either personally or by first-class mail, charges prepaid, and addressed to each member: (i) at the address given by the member to the board for the purpose of notice, or (ii) at the address of the member=s unit, if no address appears on the association’s books and no other address has been given. Notice shall be deemed to have been delivered to a person twenty-four (24) hours after a copy of it was deposited in the United States mail.

II. NOMINATIONS

A. Number and Qualification of Directors.

The association shall have seven (7) directors. All directors shall be members of the association and reside within the development. A director shall be deemed not qualified upon the sale or transfer of the unit, or upon establishment of a residence elsewhere for a continuous period of ninety (90) days.

B. Term of Office.

At each annual meeting, the voting owners shall elect directors for terms equal to those of the directors whose terms have expired.

C. Nominations.

Nominations may be made from among members. Nominations for election to the board of directors may be made by any of the following methods:

1. **Nominating Committee.** Nomination for election to the board of directors may be made by a nominating committee. The nominating committee shall consist of a chairperson, who shall be a member of the board of directors, and two (2) or more members of the association. The nominating committee shall be appointed by the board of directors prior to each annual meeting of the members to serve from the close of the annual election until the close of the next annual meeting and the appointment shall be announced at each annual meeting. The nominating committee shall make as many nominations as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

2. **Self-Nomination.** Any qualified member of the association may nominate himself or herself for election to the board of directors by submitting to the association a written statement signed and dated by the member nominating himself or herself.

3. **Floor Nominations.** Nominations may also be made from the floor at the annual meeting.

III. CAMPAIGNING

A. Access to Media.

1. **No Use of Association Resources.** The association's newsletter, website, bulletin board, or other association media may not be used for campaign purposes.

2. **Exception.** If any candidate or member is provided access to association newsletters, website, bulletin board or other association media during an election, for purposes that are reasonably related to that election, equal access shall be provided to all

candidates and members. The access shall be limited to information relating to that election, and shall include those candidates and members not endorsed by the board. 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. The association and its directors, officers, and agents, shall be immune from liability for the content of those communications to the fullest extent provided by law.

B. Use of Common Area During Election Campaign.

1. **No Cost for Use.** During an election campaign, each candidate and each member advocating a point of view reasonably related to the election shall be allowed to use, if available, the association's common area at no cost to the member or candidate.

2. **Reservation.** Each candidate or member who wants to use the common area pursuant to this rule must make a reservation in advance of the date and time requested. Candidates' and members' requests to use the common area shall be granted on a first-come, first-served basis, provided that the area is not already reserved. In order to assure fairness, each candidate may not reserve or use the common area for more than two hours on any particular date. In addition, each candidate and each member shall only be allowed to make one reservation per day to use the common area.

C. No Use of Association Funds for Campaign Purposes.

Association funds may not be used for campaign purposes in connection with any board election and may not be used for campaign purposes in connection with any other association election except to the extent necessary to comply with duties of the association imposed by law. The association shall not include the photograph or prominently feature the name of any candidate on a communication from the association or its board, excepting the ballot and ballot materials, within thirty (30) days of an election. This restriction does not preclude directors from advocating the election or defeat of any issue or candidate on the ballot. However, they may not use association funds to do so.

IV. INSPECTORS OF ELECTION

A. Selection.

1. **Process.** At least thirty (30) days prior to the date ballots are first sent out, the board of directors shall, at an open meeting of the board, select either one (1) or three (3) persons as Inspectors of Election.

2. **Eligible Inspectors.** The board shall select an Independent Third Party or Parties as Inspectors of Election. An Independent Third Party includes, but is not limited to:

- a. **Poll Worker.** A volunteer poll worker with the County Registrar of Voters,
- b. **Accountant.** A licensee of the California Board of Accountancy, including any such licensee under contract to the association,
- c. **Notary.** A notary public,
- d. **Recording Secretary.** A recording secretary, including any such recording secretary under contract to the association,
- e. **Management Company Representative.** Representatives of any management company, including any such management company under contract to the association,
- f. **Association Members.** Members of the association, but not: (i) members of the board, (ii) candidates for the board, (iii) persons related to a member of the board, or (iv) persons related to a candidate for the board,
- g. **Person or Entity Under Contract to the Association.** An Independent Third Party may 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.

B. Duties.

Duties of Inspectors of Election shall include the following:

1. **Membership.** Determine the number of memberships entitled to vote and the voting power of each.
2. **Validity.** Determine the authenticity, validity and effect of proxies, if any.
3. **Closing of Polls.** Determine when the polls shall close consistent with the governing documents.
4. **Receive Ballots.** Receive all ballots. Once a secret ballot has been received by an Inspector of Election, it shall be irrevocable.
5. **Custody.** Maintain custody of the sealed ballots at all times. The sealed ballots at all times shall be in the custody of the inspector or inspectors of election or at a location designated by the inspector or inspectors until after the tabulation of the vote and until the time allowed by Section 7527 of the Corporations Code for challenging the election has expired, at which time custody shall be transferred to the association. 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. The inspector of election, or his or her designee may verify the member's information and signature on the outer envelope prior to the meeting at which ballots are tabulated.

6. **Challenges.** Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote. If there is a recount or other challenge to the election process, the inspector or inspectors of election shall make the ballots available for inspection and review upon written request. An association member may authorize a representative to review the ballots on his or her behalf. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.

7. **Counting.** Count and tabulate all votes. All votes shall be counted and tabulated by an Inspector of Election or his or her designee in public at a properly noticed open meeting of the board of directors or members. Any candidate or other member of the association may witness the counting and tabulation of the votes.

8. **Appoint Assistants.** Appoint and oversee additional independent third parties to verify signatures, and to count and tabulate votes as the inspectors of election deem appropriate provided that such persons are independent third parties.

9. **Results.** Determine the tabulated results of the election.

10. **Impartiality.** Perform their duties impartially, in good faith, to the best of their ability, and as expeditiously as is practical. Any report made by the Inspectors of Election is prima facie evidence of the facts stated in the report.

11. **Miscellaneous.** Perform any acts as may be proper to conduct the election with fairness to all members in accordance with Civil Code section 1363.03, the Corporations Code, the association's governing documents, and all applicable rules of the association regarding the conduct of the election that are not in conflict with Civil Code section 1363.03.

V. BALLOTS AND PROXIES

A. Voting Rights.

1. **Number of Votes.** All members shall be entitled to one (1) vote for each unit owned.

2. **Designation.** There shall be one (1) person designated as voting owner for each unit, who shall be designated by the unit owner by notice to the board of directors of the association. The voting owner need not, but may, be a unit owner and if the voting owner is not a unit owner, his or her designation shall be by written notice given by the unit owner to the board of directors. The designation, as to any unit, shall be revocable at any time by actual notice to the board of directors of the death, or judicially declared incompetency of the unit owner, or by written notice or revocation to the board of

directors by the unit owner. The power of designation and revocation may be exercised by the guardian of the unit owner's estate or by his or her conservator, or in the case of a minor having no guardian, by the parent entitled to his or her custody, or during the administration of the unit owner's estate, by his or her executor. If no designation is made as to a unit or where a designation has been made but is revoked and no new designation has been made, the voting owner shall be the unit owner, as defined in the CC&Rs.

3. **Cumulative Voting.** Every voting owner entitled to vote at any election for members of the board of directors shall have one (1) vote for each vacancy on the board which is to be filled at such election. All elections of directors shall be made by cumulative voting. Each member shall have the right to give one (1) candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which he or she is entitled, or to distribute his or her votes on the same principle among any number of the remaining candidates. The persons receiving the largest number of votes shall be elected.

4. **Co-Owners.** In the event there is more than one (1) unit owner, the power of designation and revocation, and right to vote in absence of current designation, must be exercised by a majority of the unit owners. There shall be one (1) vote for each unit which shall be exercised by its voting owner. In the event there are two (2) owners of a unit and no current designation of one (1) as voting owner has been made the owner appearing at the meeting shall have the right to vote in the absence of the other, but if both are present at the meeting there must be unanimity between them in order to have a vote.

B. Proxies.

1. **Proxies.** The association may use and accept proxies as permitted by law and the association's governing documents, provided that the association shall not be required to prepare or distribute proxies. Proxies shall not be construed or used in lieu of a ballot at a meeting.

2. **Proxy Form.** Any instruction given in a proxy issued for an election that directs the manner in which the proxy holder is to cast the vote shall be set forth on a separate page of the proxy that can be detached and given to the proxy holder to retain. Proxies must meet all requirements of Chapter 4 of Article 2 of the Davis-Stirling Act, other laws, and the association's governing documents.

3. **Vote by Proxy.** The proxy holder shall cast the member's vote by secret ballot unless the proxy is revoked by the member prior to the receipt of the ballot by an inspector of election as described in Section 7613 of the Corporations Code.

C. Ballots.

1. **Non Revocable.** Once a secret ballot has been received by an Inspector of Election, it shall be irrevocable.

2. **Secret Ballot.** All items legally requiring a vote of the membership shall be held by secret ballot, including but not limited to assessments, selection and removal of members of the association's board of directors, amendments to the governing documents, or the grant of exclusive use of common area property.

a. **No Signature.** The ballot should be filled out, but not signed by the voter.

b. **Inner Envelope.** After the unsigned ballot is filled out, it must be inserted into an inner envelope which is then sealed. This sealed inner envelope must be inserted into a second envelope, which is also sealed.

c. **Second Envelope.** In the upper left hand corner of this second envelope, the voter must sign his or her name, indicate his or her name, and indicate the address or separate interest identifier that entitles him or her to vote. The second envelope must be addressed to the Inspector of Election who will be tallying the votes.

d. **Delivery.** The envelope may be mailed to the address on the envelope or delivered by hand to a location specified by the Inspectors of Election. The member may request a receipt for delivery.

3. **Quorum by Ballot.** Each ballot received by an Inspector of Election shall be treated as a member present at a meeting for purposes of establishing a quorum.

4. **Ballot Delivery to Members.** Ballots and two (2) preaddressed envelopes with instructions on how to return ballots shall be mailed by first-class mail or delivered by the association to every member not less than thirty (30) days prior to the deadline for voting. In order to preserve voter confidentiality, a voter may not be identified by name, address, or lot, parcel or unit number on the ballot.

5. **Ballot Markings.**

a. **Symbols.** A ballot which contains an unspecified number of votes shall be counted and tabulated as if it was the number "1" if any of the following appear: an "x", a checkmark, or any symbolic designation indicating the voter's intent to vote for any particular candidate, issue or ballot measure.

b. **Signatures.** A ballot shall not be invalidated solely due to the inclusion of a signature thereon.

VI. MEETING PROCEDURES

1. **Chair of Meeting.** The president of the board shall call the membership meeting to order and shall chair the meeting unless a majority of the board selects another person to chair the meeting.

2. **Quorum.** The quorum requirement for membership meetings is at least fifty percent (50%) of the voting power of the association, except as otherwise provided in the Articles of Incorporation, the Declaration, or the Bylaws. The members may be represented in person or by proxy. When a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be the act of the members.

3. **Loss of Quorum.** The members present at a duly called meeting at which a quorum is present may continue to transact business until the loss of a quorum. The business must be approved by enough members to constitute at least a majority of a quorum had a quorum been present.

4. **Adjourned Meetings.** In the absence of a quorum, no business may be transacted except to adjourn the meeting to another date and time. A majority of the members present and in good standing may adjourn the meeting, if at any meeting of the association a quorum is not present. When a meeting of members is adjourned for thirty (30) days or more notice shall be given as in the case of the original meeting. When a meeting is adjourned for less than thirty (30) days it is not necessary to give any notice of the time and place of the adjourned meeting or the business to be transacted other than by announcement at the meeting at which adjournment is taken.

5. **Counting Ballots.** The Inspectors of Election, or his or her designee, shall count and tabulate all ballots in public at a properly noticed open meeting of the board of directors or members. 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. Any candidate or other member of the association may witness the counting and tabulation of the votes.

VII. POST-ELECTION RESULTS

A. Results of the Election.

The results of the election shall be announced immediately after all the ballots have been counted. Within fifteen (15) days of the election, the board shall publicize the results of the election in a communication directed to all members.

B. Status of the Ballots after Election.

The sealed ballots at all times shall be in the custody of the inspector or inspectors of election or at a location designated by the inspector or inspectors until after the tabulation of the vote and until the time allowed by Section 7527 of the Corporations Code for challenging the election has expired, at which time custody shall be transferred to the association. After the transfer of the ballots to the association, the ballots shall be stored by the association in a secure place for no less than one (1) year after the date of the election.