

## BUENA WOODS UNIT NO. II HOMEOWNERS ASSOCIATION

### ELECTION OPERATING RULES

(Adopted \_\_\_\_\_)

#### APPLICABILITY OF ELECTION OPERATING RULES

1. These Election Operating Rules shall apply to elections required to be held by secret ballot pursuant to *Civil Code* Section 5100(a). The Board of Directors may, in its discretion, also determine to apply these Election Operating Rules to govern an election on any topic that is not expressly required by statute to be conducted by secret ballot.

#### ACCESS TO ASSOCIATION COMMUNICATIONS

2. All candidates or Members advocating a point of view shall have equal access to all Association media, newsletters, and websites during a campaign for purposes reasonably related to that election. Equal access may include no access to any candidate or Member.
3. The Association will not edit or redact (black out) any content from communications set forth in Section 2. The Association may include a statement that the candidate or Member, and not the Association, is solely responsible for the content of the communication.
4. Candidates, including those who are not incumbents, and Members advocating a point of view reasonably related to the election, shall have equal access to any Common Area meeting space, if any exists. This access shall be provided at no charge for purposes reasonably related to the election, except that the Association may implement procedures for reserving Common Area meeting spaces and access may not be provided if the area is already in use or has already been reserved.

#### CANDIDATE QUALIFICATIONS

5. Qualifications for candidates to the Board of Directors shall include:
  - a. Candidates must be Members of the Association. Any Member that is not a natural person (such as a corporate Member or trust) may appoint a natural person to be a candidate on its behalf.
  - b. Only one Owner per Lot shall be eligible to serve on the Board at any time.
  - c. Candidates must not be delinquent in the payment of any regular or special assessments, with the exception of Owners who have entered into a valid payment plan with the Association.
  - d. Candidates must not have been convicted of a crime that would prevent the Association from obtaining or maintaining fidelity bond coverage required by *Civil Code* Section 5806.

## NOMINATIONS

6. At least thirty (30) days prior to the deadline for submission of candidacy nominations, the Association shall provide Members with notice (via general delivery) of the procedures and deadline for submitting a candidacy nomination.
7. Procedures for nomination of candidates to the Board shall allow for a Member to nominate himself or herself and shall be consistent with the Governing Documents.

## VOTING

8. At least thirty (30) days prior to the mailing of ballots, the Association shall prepare:
  - a. A candidate registration list showing the names of all candidates that will appear on the ballot; and
  - b. A voter list which includes the name, voting power, mailing address, and separate interest address or parcel number for each Member.
9. Members have the right to inspect and verify the accuracy of their individual information on both lists identified in Section 8. Errors reported to the Inspector(s) of Elections shall be corrected within two (2) business days.
10. The Board may, but is not required to, set the date the ballots are mailed or otherwise delivered as the "voting cut-off date" to establish membership status for voting.
11. Every Member of record shall have the right to vote subject to the voting power of their Lot, unless the Board adopts the voting cut-off date and an individual was not a Member of Record as of that date.
12. The voting power of each Member shall be as described in the Association's Bylaws and/or Declaration.

## INSPECTOR(S) OF ELECTIONS

13. Inspector(s) of Elections (i.e. independent third parties) shall be appointed by the Board. The number of Inspector(s) of Elections shall be one (1) or three (3). If there are three (3) Inspectors of Elections, the decision or act of a majority shall be the decision or act of all.
14. The following persons may not serve as Inspector(s) of Elections: Board Members, candidates, persons who are related to Board Members, persons who are related to candidates, or any party who is currently employed or under contract with the Association for compensable services.
15. The following persons are independent third parties and may serve as Inspector(s) of Elections: Any third-party person or company hired by the Association solely for this specific purpose. Association Members may serve as Inspector(s) of Elections if they are not a Director, a candidate, or a person related to any Director or candidate.

16. Independent third parties may be compensated for performing Inspector(s) of Elections services. Association Members, however, are not entitled to compensation for serving as Inspector(s) of Elections.
17. Inspector(s) of Elections may appoint and oversee additional independent third parties to verify signatures and to count and tabulate votes.
18. The Inspector(s) of Elections are charged with performing the following duties:
  - a. Determine the number of memberships entitled to vote and the voting power of each.
  - b. Determine the authenticity, validity and effect of proxies, if any.
  - c. Receive ballots or determine a location where ballots are to be delivered.
  - d. Verify the Member's information and signature on the outer envelope. For mailed ballots, the Inspector(s) may verify the Member's information and signature on the outer envelope prior to the election;
  - e. Hear and determine challenges and questions in any way arising out of balloting or the election.
  - f. Count and tabulate all votes.
  - g. Determine when the polls shall close, consistent with the Association's Governing Documents.
  - h. Determine the tabulated results of the election.
  - i. Report the tabulated results of the election or balloting promptly to the Board of Directors to ensure that the Board can publicize the results to the homeowners within 15 days of the election.
  - j. Retain the ballots at a location designated by the Inspector(s) of Elections pursuant to *Civil Code* Section 5125.
  - k. Perform any acts as may be proper to conduct the election with fairness to all Members in accordance with *Civil Code* Sections 5100 - 5145, the *Corporations Code*, and these Election Operating Rules to the extent not in conflict with *Civil Code* Sections 5100 - 5145.

#### **ELECTION PROCEDURES**

19. After the deadline for submission of candidacy nominations, and at least thirty (30) days prior to the mailing of ballots, the Association shall prepare the candidacy registration list and voter list, pursuant to Section 8 above.
20. At least thirty (30) days prior to the mailing of ballots, the Association shall provide Members notice of the following (via general delivery):
  - a. The date, time, and physical location for the return of ballots;
  - b. The date, time, and location of meeting; and
  - c. The names of all candidates that will appear on the ballot.
21. At least thirty (30) days prior to the deadline for voting, the Inspector(s) of Elections or Association shall mail or otherwise deliver ballots to the Members. Within this same timeframe, a copy of these Election Operating Rules shall be provided to the Members either:

- a. By mail with the ballots; or
  - b. By posting to a website and including the corresponding website address on the ballot together with the phrase in at least 12-point font: "The rules governing this election may be found here: ..."
22. The voting period for elections shall commence when the notice of the meeting and/or ballots have been mailed/ delivered to all Members and shall terminate as stated in the notice and/or ballot or as determined by the Inspector(s) of Elections, consistent with the Governing Documents.
  23. The form and content of election materials, i.e., secret written ballot, envelopes, proxies, etc., shall conform to the requirements of the *Civil Code*.
  24. No Member shall be denied a ballot, unless the Board adopts the voting cut-off date and an individual was not a Member of Record as of that date.
    - a. No person who holds a valid general power of attorney for a Member shall be denied a ballot, if requested.
    - b. A ballot cast by a person who holds a valid general power of attorney for a Member shall be counted if received timely by the Inspector(s) of Elections.
  25. Once a ballot has been received by the Inspector(s) of Elections, it shall be irrevocable. If proxies are allowed and a Member submits both a proxy and a ballot to the Inspector(s) of Elections, the ballot will supersede the proxy.
  26. The authenticity, validity and effect of proxies submitted by Members shall be determined by the Inspector(s) of Elections, consistent with the Association's Governing Documents and California law.
  27. Proxies may not be used in lieu of a ballot. Proxies may be revoked by the Member prior to receipt of the ballot by the Inspector(s) of Elections.
  28. Votes shall be counted and tabulated by the Inspector(s) of Elections or their designee(s) in an open area at a properly noticed open meeting of the Board or Members. Any candidate or other Member may witness the counting and tabulation of the votes. To ensure anonymity of the voting, Members must stand at least five (5) feet away from the Inspector(s) of Elections or their designee(s) during the tabulation process. Members are prohibited from speaking to the Inspector(s) of Elections or their designee(s) during the tabulation process or interrupting the tabulation process in any way.
  29. Notice of the tabulated results of the election shall be provided to the Members (by general delivery) within fifteen (15) days of the election.
  30. Ballots, signed voter envelopes, the voter list, proxies, and the candidate registration list shall be retained in the custody of the Inspector(s) of Elections or at a location designated by the Inspector(s) of Elections as set forth in *Civil Code* Section 5125, at which time the ballots shall be transferred to the Association.

31. If there is a recount or other challenge to the election process, the Inspector(s) of Elections shall, upon written request, make the ballots available for inspection and review by an Association Member or his or her authorized representative, at a location and time as determined by the Inspector(s) of Elections. The recount shall be conducted in a manner that preserves the confidentiality of the vote. The candidate or Member requesting the recount shall be responsible for any and all costs related to the recount, including compensation to the Inspector(s) of Elections, if applicable.

## GUIDELINES FOR INSPECTORS OF ELECTION

\_\_\_\_\_, 20\_\_

As an Inspector of Election for the Association, you are charged with the following:

1. Determine the number of memberships entitled to vote and the voting power of each;
2. Determine the authenticity, validity and effect of proxies, if any;
3. Allow members to review their individual information on the voter list and candidate list and make any reported changes within two business days.
4. Determine the location to which all ballots are to be returned and receive the ballots and/or designate the location for ballots to be received;
5. At least thirty (30) days prior to the deadline for voting, the Inspector(s) of Elections or Association shall mail or otherwise deliver ballots to the Members. Within this same timeframe, a copy of the Election Operating Rules shall be provided to the Members, pursuant to the procedure in the Election Operating Rules and California law.
6. For mailed ballots, the Inspector(s) of Elections or their designee may verify the member's information and signature on the outer envelope prior to the election;
7. Hear and determine all challenges and questions to the balloting or election;
8. Count and tabulate all ballots and/or appoint additional independent third parties to assist in verifying member signatures and counting and/or tabulating votes;
9. Determine when the polls are to close consistent with the governing documents;
10. Determine the tabulated results of the election or balloting;
11. Report the result of the election or balloting to the Board of Directors within 10 days of the date that the polls closed to ensure that the Board can publicize the results to the homeowners within 15 days of the election;
12. Retain ballots, signed voter envelopes, voter list, candidate registration list, parcel numbers, voters to whom ballots were to be sent, and proxies or designate a location for the items to be held until the period allowed for challenging the election has expired pursuant to *Corporations Code* Section 7527, and any successor statutes;
13. Make the ballots available for inspection and review by an association member or his or her authorized representative upon request by a member;
14. Perform such other acts as may be necessary to conduct the election or balloting in fairness to all members and in accordance with all rules of the Association;
15. If there are three Inspectors of Election, after the matter is discussed by all three Inspectors, the decision of a majority of the Inspectors shall be the formal decision of the Inspectors of Election.
16. Read, understand, apply and enforce the Association's current Election Operating Rules and ask the Association's legal counsel in the event any legal issues arise.