

GLENOAK HILLS COMMUNITY ASSOCIATION

Rules for Elections and Voting

1.0 Access to Association Media.

- 1.1 Definition of Association Media** – “Association Media” means the Association’s newsletters, internet websites or any other form of communication with the membership.
- 1.2 Equal Access to Association Media** – All candidates will be granted equal access to the Association’s media for purposes reasonably related to the election.
- 1.3 No Alteration of Candidate Communications** – The Association may not edit or change the content of any candidate’s message, but may include a statement disclaiming responsibility for the content.

2.0 Access to Common Area Meeting Space.

- 2.1 Equal Access to Common Area Meeting Space** – All candidates shall be granted equal access to the common area meeting space at no cost, for purposes reasonably related to the election.

3.0 Qualifications and Nomination of Directors.

3.1 Qualification of Directors and Nomination Procedures.

- 3.1.1 Qualifications for Nomination** – In order to be nominated to the Board of Directors, all nominees must meet the qualifications as set forth in Bylaws Article III, Section 2 and the Association’s Governing Documents in effect at the time of the nomination.
- 3.1.2 Self Nomination** – Any member of the Association may nominate himself or herself for election to the Board of Directors.
- 3.1.3 Candidate Nomination Form (“Form”)** – Candidates may be nominated for election to the Board by a Nomination Form. A Candidate Nomination Form will be mailed to each owner a reasonable time before the annual meeting. Owners interested in serving as a director must complete and return a Form. Directors who want to serve again must complete and return a Form. Owners can nominate themselves or another person. Completed Forms must be returned by the deadline listed on the Form. Only those candidates who are qualified and have returned their Forms on time will be listed on the voting materials.

4.0 Voting and Proxies.

- 4.1 Voting Rights** – Each owner has the right to cast one vote per separate interest owned, on each matter submitted to owners for voting, unless the right to vote has been suspended. Note that each director vacancy counts as one matter.
- 4.2 Cumulative Voting** – The Association's Bylaws allow cumulative voting for election to the Board of Directors. In any vote for the election of more than (1) director, members shall be entitled to cumulate their votes; that is, all or any part of the total number of votes that each member has (based upon one vote per member for each vacancy to be filled) may be cast for the election of any one director. (Article V, Section 3 of the Association's Bylaws).
- 4.3 Proxy Voting** – Owners may assign their rights to vote to someone else by a proxy. To ensure secret voting, all proxies must have detachable voting directions which are to be kept by the person voting (the proxy-holder). A proxy is not a ballot. The proxy-holder must vote by a secret ballot. Proxies must comply with California law in order to be valid, and may be revoked by the owner any time prior to the receipt of the ballot by the inspector of elections.
- 4.3.1 Distribution of Proxies** – Proxies are not required to be sent out with any general mailings that include ballots.
- 4.4 Non-revocable Ballots** – Written ballots may not be revoked once they are submitted to the Inspector(s) of Election. Once written ballots are deposited in the U.S. mail to the Inspector(s) of Election, they are considered non-revocable.
- 4.5 Loss of Ballot** – If an owner loses his/her ballot prior to the annual meeting, they may request another ballot, along with the appropriate envelopes from the Inspector(s) of Election, but they must sign a statement, under penalty of perjury that the original ballot was either lost, destroyed or never received. The Inspector(s) of Election shall maintain a record of each request and, if it is determined that the owner voted twice, even by mistake, neither ballot would be counted.
- 4.6 Secrecy of Ballots** – An owner who signs or otherwise marks his/her ballot with an identifying mark, waives his/her right to secrecy. The Association is not responsible for removing or redacting personal information that is added to the ballots by the owner.

- 4.7 Voting Period** – The polls will open when the ballots are sent to the members and will close on the final collection of ballots for counting.
- 4.8 Tabulation of Ballots** – At the close of the polls, if the number of nominees is equal to or fewer than the number of positions open for the Board of Directors, the vote count will be waived and the Inspector(s) of Election will not be required to tabulate the votes. All nominees will be deemed elected to serve on the Board of Directors.

5.0 Selection of Inspectors of Election.

- 5.1** The Board will appoint an Inspector or Inspectors of Election; either one or three, within a reasonable time before the annual meeting.
- 5.2** Civil Code §1363.03(c)(2) lists individuals who can act as Inspectors of Election. The Board may expressly authorize the Association's managing agent to serve as Inspector(s) of Election. The Board may also appoint a member or members of the Association provided such member is not a member of the Board of Directors or a candidate for the Board of Directors or related to a member of the Board of Directors or a candidate for the Board of Directors.
- 5.3 Removal of Inspectors of Election** – The Board of Directors may remove and replace any Inspector of Election prior to the tabulation of votes if an Inspector resigns or if the Board reasonably determines that an Inspector will not be able to perform his or her duties impartially and in good faith.

6.0 Appointment Power of Inspectors of Election.

- 6.1 Appointment and oversee Additional Persons** – The inspector or inspectors of election shall have the power to appoint and oversee additional persons to verify signatures and to count and tabulate votes as the inspector or inspectors deem appropriate, provided that the persons are independent third parties.

APPENDIX TO ELECTION RULES
RESTATEMENT OF CIVIL CODE SECTIONS 1363.03(b)-(j) and 1363.04

7.0 Applicability; Quorum; Cumulative Voting.

- 7.1 Applicability of Rules [Civil Code §1363.03(b)]** – Notwithstanding any other law or provision of the governing documents, elections regarding assessments legally requiring a vote, election and removal of members of the association board of directors, amendments to the governing documents, or the grant of exclusive use of common area property pursuant to Section 1363.07 shall be held by secret ballot in accordance with the procedures set forth in this section.
- 7.2 Secret Ballots [Civil Code §1363.03(b)]** – Owner voting on the items listed in 7.1 above will be by secret ballot.
- 7.3 Quorum [Civil Code §1363.03(b)]** – A quorum shall be required only if so stated in the governing documents of the Association or other provisions of law. If a quorum is required by the governing documents, each ballot received by the inspector of elections shall be treated as a member present at a meeting for purposes of establishing a quorum.
- 7.4 Cumulative Voting [Civil Code §1363.03(b)]** – An association shall allow for cumulative voting using the secret ballot procedures provided in this section, if cumulative voting is provided for in the governing documents.

8.0 Inspectors of Election [Civil Code §1363.03(c)(1)] – The Association shall select an independent third party or parties as an Inspector of Election. The number of Inspectors of Election shall be one or three.

8.1 Who can Act as an Inspector of Election [Civil Code §1363.03(c)(2)] – The individuals include, but are not limited to, the following:

- (1) A volunteer poll worker with the county registrar of voters;
- (2) A licensee of the California Board of Accountancy;
- (3) A notary public; and
- (4) A member of the Association provided such member is not a member of the Board of Directors or a candidate for the Board of Directors or related to a member of the Board of Directors or a candidate for the Board of Directors.
- (5) An independent third party 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 UNLESS expressly authorized by the rules of the Association adopted pursuant to paragraph (5) of subdivision (a) of the Statute.

8.2 Duties of Inspectors of Election [Civil Code §1363.03(c)(3)].

- (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;
- (d) Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote;
- (e) Count and tabulate all votes;
- (f) Determine when the polls shall close, consistent with the governing documents;
- (g) Determine the tabulated result of the election;
- (h) Perform any acts as may be proper to conduct the vote with fairness to all members in accordance with this section, the Corporations Code, and all applicable rules of the association regarding the conduct of the election that are not in conflict with this section.

8.3 Good Faith of Inspector(s) of Election [Civil Code §1363.03(c)(4)] – An Inspector of Election shall perform his or her duties impartially, in good faith, to the best of his or her ability, and as expeditiously as is practical. The decision or act of a majority of the Inspectors of Election shall be effective in all respects as the decision or act of all. Any report made by the Inspector(s) of Election is prima facie evidence of the facts stated in the report.

9.0 Proxies.

9.1 Proxies [Civil Code §1363.03(d)(1)] – For purposes of this section, the following definitions shall apply:

- (a) “Proxy” means a written authorization signed by a member or the authorized representative of the member that gives another member or members the power to vote on behalf of that member.
- (b) “Signed” means the placing of the member’s name on the proxy (whether by manual signature, typewriting, telegraphic transmission, or otherwise) by the member or authorized representative of the member.

9.2 Proxies are not Ballots [Civil Code §1363.03(d)(2)] – Proxies shall not be construed or used in lieu of a ballot.

9.3 Proxy Use Optional [Civil Code §1363.03(d)(2)] – An association may use proxies if permitted or required by the bylaws of the association and if those proxies meet the requirements of this article, other laws, and the association’s governing documents, but the association shall not be required to prepare or distribute proxies pursuant to this section.

- 9.4 Proxy Instructions [Civil Code §1363.03(d)(3)]** – Any instruction 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.
- 9.5 Proxyholder Must Vote by Ballot [Civil Code §1363.03(d)(3)]** – The proxyholder shall cast the member’s vote by secret ballot.
- 9.6 Revocation of Proxies [Civil Code §1363.03(d)(3)]** – The proxy may be revoked by the member prior to the receipt of the ballot by the inspector of elections as described in Section 7613 of the Corporations Code.

10.0 Absentee Ballots.

- 10.1 Voting by Absentee Ballots [Civil Code §1363.03(e)]** – Members may vote by absentee ballot. The Association will mail two pre-addressed envelopes with instructions on how to return ballots to all members at least 30 days before the annual meeting. The law requires the following procedures with regard to absentee ballots:

10.1.1 Envelopes – Ballots and two pre-addressed envelopes with instructions on how to return ballots shall be mailed by first-class mail or delivered by the Association to every member.

10.1.2 Confidentiality – In order to preserve confidentiality, a voter may not be identified by name, address, lot, parcel, or unit number on the ballot.

10.1.3 Model Procedures – The Association shall use as a model those procedures used by California counties for ensuring confidentiality of voter absentee ballots.

10.1.4 Absentee Ballot Procedures [Civil Code §1363.03(e)(1)] – The ballot itself is not signed by the voter, but is inserted into an envelope that is sealed. This envelope is inserted into a second envelope that is sealed. In the upper left hand corner of the second envelope, the voter shall 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.

10.1.5 Delivery of Ballot [Civil Code §1363.03(e)(2)] – The second envelope is addressed to the Inspector or Inspectors of Election, who will be tallying the votes. The envelope may be mailed or delivered by hand to a location specified by the Inspector or Inspectors of Election. The member may request a receipt for delivery.

11.0 Ballots Generally.

- 11.1 Counting Ballots [Civil Code §1363.03(f)]** – All votes shall be counted and tabulated by the Inspector(s) 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 votes. 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. Once a secret ballot is received by the inspector of elections, it shall be irrevocable.
- 11.2 Announcing Results of Vote [Civil Code §1363.03(g)]** – After counting the votes, the Inspector(s) will promptly report to the board of directors and shall record the tabulated results in the minutes of the next meeting of the board of directors. The tabulated results shall be available for review by members of the association. Within 15 days of the election, the board shall publicize the tabulated results of the election in a communication directed to all members.
- 11.3 Custody of Ballots [Civil Code §1363.03(h)]** – The sealed ballots at all times shall be in the custody of the Inspector(s) of Election or at a location designated by the Inspector(s) 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.
- 11.4 Ballot Retention [Civil Code §1363.03(i)]** – After the transfer of the ballots to the association, election ballots shall be stored by the association in a secure place for no less than 1 year after the date of the election (i.e., 3 months after transfer of the ballots from the Inspector(s) of Election to the Association).
- 11.5 Recount or Challenge [Civil Code §1363.03(i)]** – If there is a recount or other challenge to the election process, the inspector or inspectors of election shall, upon written request, make the ballots available for inspection and review by an association member or his or her authorized representative. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.

12.0 Use of Association Funds for Campaign Purposes.

12.1 Association Funds Shall Not Be Used for Campaign Purposes [Civil Code §1363.04(a)] – Association funds shall not be used for campaign purposes in connection with any association board election. Funds of the association shall 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.

12.2 Definition of Campaign Purposes [Civil Code §1363.04(b)] – “Campaign Purposes” include, but are not limited to, the following:

- (1) Expressly advocating the election or defeat of any candidate that is on the association election ballot.
- (2) Including the photograph or prominently featuring the name of any candidate on a communication from the association or its board, excepting the ballot and ballot materials, within 30 days of an election, provided that this is not a campaign purpose if the communication is one for which subdivision (a) of Section 1363.03 requires that equal access be provided to another candidate or advocate.