

**FIELDSTONE OWNERS' ASSOCIATION**

**ELECTION RULES**

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## FIELDSTONE OWNERS' ASSOCIATION ELECTION RULES

The Board of Directors adopted these election rules in accordance with California Civil Code Section 1357.100 et seq. Notwithstanding any other law or provision of the governing documents, these rules shall apply to all matters set forth in Section 1363.03(b) of the California Civil Code.

### **Section 1. Inspector of Elections**

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#### **A. Appointment and Term**

1. **Appointment.** The Board of Directors shall appoint one or three persons to serve as the Inspector of Elections, who shall serve at the discretion of the Board, and who shall have such powers and duties as the Board shall determine, subject to the limitations imposed by these election rules ("Election Rules").
2. **Term.** The Inspector of Elections shall serve in their capacity until they resign, are discharged by the Board, or until they submit their completed written report to the Board as required by Section 1(D)(2)(i).

#### **B. Qualifications**

1. The Inspector of Elections must be an independent third party who is not any of the following:
  - a. Currently a Member of the Board of Directors or a candidate for the Board of Directors; or
  - b. Related to a Member of the Board of Directors or a candidate for the Board of Directors.
2. Within the absolute discretion of the Board, an independent third party may be a person who is currently employed or under contract to the Association for any compensable services.

#### **C. Powers**

1. Notwithstanding any provision in the Association's governing documents to the contrary, an Inspector of Elections shall preside over an election or vote dealing with any of the matters set forth in Civil Code Section 1363.03(b).
2. The Inspector of Elections may meet and discuss election issues amongst themselves and/or with the Association's legal counsel.

3. If there are three Inspectors of Elections, the decision or act of two or more Inspector of Elections shall be effective in all respects as the decision or act of all.
4. The Inspector of Elections may appoint and oversee additional persons to count and tabulate votes as the Inspector of Elections deems appropriate.

**D. Duties**

1. The Inspector of Elections shall perform his or her duties impartially, in good faith, to the best of his or her ability, and as expeditiously as is practical.
2. The Inspector of Elections shall do all of the following:
  - 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 results of the election.
  - h. Perform any acts as may be proper to conduct the election with fairness to all Members in accordance with this section, the California Corporations Code, and all applicable rules of the Association regarding the conduct of the election that are not in conflict with this section.
  - i. Prepare a written report of the activities undertaken in any election.

**Section 2. Director Qualifications**

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- A. All persons nominated and elected to the Board of Directors shall meet the qualifications set forth in the Bylaws of Fieldstone Owners' Association (the "Bylaws"), as they may be amended from time to time.

### **Section 3. Nomination and Candidate Procedures**

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- A. In addition to any nomination procedures set forth in the Bylaws and notwithstanding any provision contained in the governing documents to the contrary, Members may nominate themselves as candidates for election to the Board of Directors.
- B. A Member may nominate himself or herself as a candidate for election to the Board of Directors by giving written notice of such nomination to the Association's Secretary, or other designated agent, on or before a date determined by the Board.
- C. If a person nominated is not qualified to hold an elected position his or her name shall not appear on the ballot and he or she will not be permitted to serve if elected.
- D. If upon the close of nominations, the number of eligible candidates is equal to or less than the number of seats to be filled, the Board may dispense with the mailing of the secret ballots as such mailing would serve no purpose and, in its discretion, appoint those candidates to replace those Directors whose terms would be expiring. Within 15 days after the candidates take office the Board shall publicize the appointments in a communication directed to all Members. If the number of Directors so elected is less than the number of vacancies, the Board of Directors shall fill the vacancy as may be provided for in the Bylaws and California law.
- E. In the event that the election is a contested election in that the number of candidates exceeds the number of seats to be filled on the Board of Directors, the Board shall proceed with the secret ballot election procedures set forth in Civil Code section 1363.03 and these Election Rules.

### **Section 4. Media Access**

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- A. If any publicity is provided by the Association for purposes that are reasonably related to the election, it shall be provided to all candidates and Members advocating a point of view.
- B. If any publicity is provided by the Association, the Association will not censor, edit or redact the communication but shall include a statement specifying that the message is that of the Members and the Association is not responsible for its content. The following statement shall be published by the Association: "*The views expressed are those of its author and do not reflect the views of the Association, its directors, managers, employees, or agents. The author is solely responsible for its content. The Association is required by law to publish the communication as written regardless of the content.*"

### **Section 5. Common Area Meeting Space**

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- A. If common area meeting space exists, it shall be provided at no cost to all candidates and Members advocating a point of view for purposes reasonably related to the election or vote, subject to procedural rules as may be adopted by the Board to assure orderly use of such meeting space.

- B. If required by the governing documents, the Association will schedule a community election forum prior to an election of the Board or a vote subject to these Election Rules, whereby candidates and Members who are advocating a point of view which is the subject matter of the pending election or vote may attend and speak to any Association Members choosing to attend. The community election forum shall be conducted in accordance with the governing documents and any procedural rules adopted by the Board.
- C. Any Member desiring to use the common area meeting space for such a purpose shall be responsible for leaving the premises in the condition they were found. The Member shall be required to provide a deposit which will be returned when the premises are returned clean and undamaged.

#### **Section 6. Association Funds**

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In accordance with Civil Code section 1363.04, Association funds shall not be used for campaign purposes in connection with any election except as necessary to hold the election.

#### **Section 7. Voting Qualifications**

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- A. Pursuant to Sections 3.09 of the Bylaws and 7.03 of the Fieldstone Planned Development Declaration of Restrictions only qualified Members of the Association shall be entitled to vote.
- B. Members shall be entitled to cast one vote for each Lot owned.
- C. Voting periods shall be determined by the Board of Directors for all matters subject to these Election Rules.

#### **Section 8. Methods of Voting**

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- A. The Association shall not be required to prepare or distribute proxies when voting on any matter requiring vote by secret ballot under Civil Code Section 1363.03.
- B. If proxies are received, they are valid and effective only if they comply with California law and Section 3.10 of the Bylaws. The Inspector of Elections shall determine the authenticity of any proxies received and may deem a proxy used to vote by secret ballot authentic only if the proxy complies with California Civil Code Section 1363.03(d). The Inspector of Elections may also take into consideration any reasonable criteria established by the Board of Directors to authenticate a proxy when making such a determination.
- C. The authenticity, validity and effect of proxies with respect to any other Member voting matter that is not determined by secret ballot shall be as set forth in the Association's Bylaws, as such Bylaws may be amended from time to time, and in California law.

- D. Cumulative voting in the election of Board members is permitted in accordance with Section 3.09 of the Bylaws.

**Section 9. Voting Period**

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- A. The voting period shall begin on the date the ballots are distributed and shall close on the date established by the Board, which shall be not less than 30 days from the date of distribution. Once appointed to oversee an election, the Inspector of Elections shall determine, in his or her discretion, the specific date and time when the polls close.
- B. In the Board of Directors' sole discretion, the voting period may be extended if sufficient ballots have not been received.

**Section 10. Ballot Requirements**

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- A. Voting with regard to the matters addressed in Civil Code Section 1363.03(b) shall be determined by using a double envelope system to ensure the anonymity of the Member casting his or her vote.

**Section 11. Ballot and Voting Procedure**

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A. **Ballots**

1. A ballot and two pre-addressed envelopes, a smaller (inner) envelope and a larger (outer) envelope, along with instructions on how to return the ballot 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.
2. A voter may not be identified by name, address, or the lot number that entitles him or her to vote on the ballot.
3. The ballot itself is not to be signed by the Member voting, but is to be inserted into the smaller (inner) envelope that is sealed by the Member. This envelope is inserted into larger (outer) envelope that is sealed by the Member.
4. The larger (outer) envelope is addressed to the Inspector of Elections. In the upper left-hand corner of the second envelope, the voter prints and signs his or her name, address, and lot number that entitles him or her to vote.
5. The ballot may be mailed or delivered by hand to a location specified by the Inspector of Elections. The Member may request a receipt for delivery.
6. Once a ballot is cast it cannot be revoked. A ballot is "cast" when it is received.

B. **Vote Tabulation**

1. The ballots shall not be opened or otherwise reviewed prior to the time and place at which the ballots are counted and tabulated. In no event shall any ballots be opened if insufficient ballots exist to meet the quorum requirement.
2. All votes shall be counted and tabulated by the Inspector of Elections, or the duly authorized persons appointed by the Inspector of Elections to count and tabulate the votes if allowed under California law, in public at a properly noticed open meeting of the Board of Directors.
3. If the Inspector of Elections determines that insufficient ballots exist to meet the quorum requirement, the Board:
  - a. Shall extend the voting period for elections to the Board of Directors.
  - b. May extend the voting period for any other matter subject to these Election Rules.
4. In a Board of Director election, if there is a tie vote between those candidates who receive the lowest number of votes, the tie shall be broken by a random method, as determined by the Inspector of Elections.

## **Section 12. Voting Results, Storage and Retention**

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### **A. Election Results**

1. The Inspector of Elections shall promptly report the results of the election to the Board of Directors who shall record the results of the election in the minutes of the next Board meeting and make them available to the Members of the Association for review.
2. Within 15 days of the election, the Board shall publicize the results of the election in a communication directed to all Members.

### **B. Custody, Storage and Retention of Ballots from Elections**

#### **1. Custody**

- a. The sealed ballots shall remain in the custody of the Inspector of Elections or at a location designated by the Inspector of Elections at all times prior to tabulation of the vote and until the time allowed by California Corporations Code Section 7527 for challenging the election has expired.
- b. In the event of a recount or other challenge to the election process, the Inspector of Elections shall, upon written request, make the ballots available for inspection and review by Members or their authorized representatives. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.



- c. Once the time for challenging the election has expired, the Inspector of Elections shall transfer physical custody of the ballots to the Association.

2. **Storage and Retention**

- a. After tabulation, ballots shall be stored by the Association in a secure place for at least one year after the date of election.
- b. In the event of a recount or other challenge to the election process, upon written request, the Association shall make the ballots available for inspection and review by Association Members or their authorized representatives. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.