

# General Notice of Procedure

## ARTICLE 20: ELECTION RULES

### PINE MOUNTAIN CLUB PROPERTY OWNERS' ASSOCIATION, INC.

The following Election Rules were duly adopted by the Board of Directors of Pine Mountain Club Property Owners Association, Inc. (the "Association") in accordance with the procedures in the Davis-Stirling Common Interest Development Act (the "Act"), and are subject to all applicable and enforceable statutes, laws, and provisions of the Association's governing documents.

#### 1. ELECTIONS GENERALLY

- a. Notwithstanding any other law or provision of the governing documents, elections regarding assessments legally requiring a vote, election and removal of directors, amendments to the governing documents, the grant of exclusive use of common area pursuant to Civil Code section 4600, or for approval/disapproval of other Association business that may be properly brought before the members of the Association shall be held by secret ballot in accordance with the procedures set forth in Chapter 6 Article 4 of the Act.

#### 2. ELECTIONS FOR DIRECTORS

The Association shall hold an election for each seat on the board of directors, in accordance with the procedures set forth in Chapter 6 Article 4 of the Act at the expiration of the corresponding director's term and at least once every four years.

#### 3. QUALIFICATIONS FOR DIRECTORS

- a. Subject to paragraph 3(f) below, the Association shall disqualify a person from a nomination as a candidate for not being a member of the Association at the time of the nomination.
- b. Subject to paragraph 3(f) below, the Association shall disqualify a person from nomination as a candidate, and shall disqualify a director during their board tenure, if that person is not current in the payment of regular and special assessments; provided, however that the person shall not be disqualified for failure to be current in payment of regular and special assessments if either of the following circumstances is true:

- (1) The person has paid the regular or special assessment under protest pursuant to Civil Code section 5658; or

- (2) The person has entered into a payment plan pursuant to Civil Code section 5665.

The Association may not disqualify a nominee for nonpayment of fines, fines renamed as assessments, collection charges, late charges, or costs levied by a third party.

- c. Subject to paragraph 3(f) below, the Association shall disqualify a person from nomination as a candidate if the person, if elected, would be serving on the board at the same time as another person who holds a joint ownership interest in the same separate interest parcel as the person and the other person is either properly nominated for the current election or an incumbent director.
- d. Subject to paragraph 3(f) below, the Association shall disqualify a nominee if that person has been a member of the Association for less than one year.
- e. Subject to paragraph 3(f) below, the Association shall disqualify a nominee if that person discloses, or if the Association is aware or becomes aware of, a past criminal conviction that would, if the person 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.
- f. The Association shall not disqualify a person from nomination if the person has not been provided the opportunity to engage in internal dispute resolution pursuant to Article 2 (commencing with Section 5900) of Chapter 10 of the Act.
- g. If title to a separate interest parcel 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 Article 4 of Chapter 6 of the Act.

#### 4. PROCEDURES FOR THE NOMINATION OF CANDIDATES FOR DIRECTOR

- a. Members may nominate themselves as a candidate for director by submitting a letter of intent at the Association business office. A member nominating another member must first obtain the written permission of the nominee. No person may seek election to more than one term at the same election.
- b. A member who is to be a candidate for director shall notify the Secretary in writing of his/her intent to run by 5:00 p.m. at the Association business office by March 26<sup>th</sup>, provided that if March 26<sup>th</sup> falls on a Saturday, Sunday, or holiday the deadline shall be 5:00 p.m. on the first business day thereafter. The letter of intent must include the nominee's intent to seek office, the term of office, and tract and lot numbers, and must be signed by the nominee. All the required information must be contained on one side of an 8 1/2" x 11" sheet of paper. The written notice of intent to be a candidate must be accompanied by a completed Candidate Filing Form and biography/resume.
- c. The Association shall provide general notice of the procedure and deadline for submitting a nomination at least 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.

- d. Write-in candidates for ballots shall be permitted in elections for director.
- e. Nominations from the floor of a membership meeting shall not be allowed in any election for directors

## 5. VOTING POWER OF EACH MEMBERSHIP

- a. There shall be one vote for each lot. The owner of a multi-residential lot shall have one vote for each whole assessment paid by that owner. There shall be one vote for a commercial lot as such shall be defined by law or contract from time to time. Subject to the provisions of Corporations Code Section 7612, or its replacement section upon its amendment or replacement, if a membership stands of record in the names of two or more persons, or if two or more persons have the same fiduciary relationship respecting the same membership, if only one such person votes, such act binds all owners. If more than one such person votes, the act of the majority so voting binds all owners. No single vote shall be split in fractional votes.
- b. Except as otherwise provided in the Bylaws, the voting right of a membership may be exercised either (a) in person at a meeting of the members held in accordance with the Bylaws or (b) by mail on a written ballot in a form approved by the board and furnished by the Association to the members or (c) by electronic ballot in accordance with California Code.

## 6. CAMPAIGNING

- a. If any candidate or member advocating a point of view is provided access to Association media, newsletters, or internet websites during a campaign, for purposes that are reasonably related to that election, equal access shall be provided to all candidates and members advocating a point of view, including those not endorsed by the board, for purposes that are reasonably related to the election. 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.
- b. All candidates, including those who are not incumbents, and all members advocating a point of view, including those not endorsed by the board, shall be allowed access to a common area meeting space, during a campaign, at no cost, for purposes reasonably related to the election.
- c. 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.

(l) For the purposes of this paragraph 6(c), "campaign purposes" include, but are not limited to, the following:

- a. Expressly advocating the election or defeat of any candidate that is on the Association election ballot;
- b. Including the photograph or prominently featuring the name of any candidate on a communication from the Association or the board, excepting the ballot, ballot materials, or a communication that is legally required, within 30 days of an election. This is not a campaign purpose if the communication is one for which subdivision (a) of Civil Code section 5105 requires that equal access be provided to another candidate or advocate.

## 7. INSPECTOR OF ELECTION

- a. One independent third party will be selected as the inspector of elections by vote of the board of directors following an open-bid process in which qualified candidates are invited to bid. The individual or firm selected as inspector of elections is required to have a First-Class U.S. Postal Service return postage account in order to handle the return postage for the ballots. PMCPOA will be billed by the inspector of elections for the actual amount of the return postage.
- b. For the purposes of this Election Rule 7, an independent third party includes, but is not limited to, a volunteer poll worker with the county registrar of voters, a licensee of the California Board of Accountancy, or a notary public. An independent third party may be a member, but may not be a director or a candidate for director or be related to a director or to a candidate for director. 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 other than serving as an inspector of elections.
- c. The inspector of elections shall do all of 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) Receive ballots.
  - (4) Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.

- (5) Count and tabulate all votes.
  - (6) Determine when the polls shall close, consistent with the governing documents.
  - (7) Determine the tabulated results of the election.
  - (8) Perform any acts as may be proper to conduct the election with fairness to all members in accordance with Article 4 of Chapter 6 of the Act, the Corporations Code, and all applicable rules of the Association regarding the conduct of the election that are not in conflict with Article 4 of Chapter 6 of the Act.
- d. An inspector of elections shall perform all duties impartially, in good faith, to the best of the inspector of election's ability, as expeditiously as is practical, and in a manner that protects the interest of all members of the Association. Any report made by the inspector of elections is prima facie evidence of the facts stated in the report.
  - e. The inspector of elections shall be allowed to appoint and oversee additional persons to verify signatures and to count and tabulate votes as the inspector deems appropriate, provided that the persons are independent third parties.
  - f. The inspector of election shall deliver, or cause to be delivered, at least 30 days before an election, to each member both of the following documents:
    - (A) The ballot or ballots.
    - (B) A copy of these election rules. Delivery of these election rules may be accomplished by either of the following methods:
      - (i) Posting the election operating rules 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:"
      - (ii) Individual delivery.
  - g. The board shall have the authority, at an open board meeting, to remove an inspector of election who does not meet the required qualifications, is unable or unwilling to perform their duties, or for other good cause. If the board removes an inspector of election pursuant to this section, it shall expeditiously select a new inspector of election at an open board meeting.

## 8. BALLOTS AND VOTING

- a. The Association shall provide general notice of all of the following at least 30 days before the ballots are distributed:
  - i. The date and time by which, and the physical address where, ballots are to be returned by mail or handed to the inspector of elections;
  - ii. The date, time, and location of the meeting at which ballots will be counted; and
  - iii. The list of all candidates' names that will appear on the ballot (the "candidate registration list").
- b. Individual notice of the information in paragraph 9(a) above shall be delivered pursuant to Civil Code Section 4040 if individual notice is requested by a member.
- c. The Association shall create and maintain a candidate registration list and a voter list.
  - i. The voter list shall include name, voting power, and either the physical address of the voter's separate interest, the parcel number, or both. The mailing address for the ballot shall be listed on the voter list if it differs from the physical address of the voter's separate interest or if only the parcel number is used.
  - ii. The Association shall permit members to verify the accuracy of their individual information on both lists at least 30 days before the ballots are distributed.
  - iii. The Association or member shall report any errors or omissions to either list to the inspector who shall make the corrections within two business days.
- d. Ballots and two 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 30 days prior to the deadline for voting. In order to preserve confidentiality, a voter may not be identified by name, address, or lot, parcel, or unit number on the ballot. The Association shall use as a model those procedures used by California counties for ensuring confidentiality of vote by mail ballots, including all of the following:
  - i. 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 the voter's name, indicate the voter's name, and indicate the address or separate interest identifier that entitles the voter to vote.
  - ii. The second envelope is addressed to the inspector of elections, who will be tallying the votes. The envelope may be mailed or delivered by hand to a location specified by the inspector of elections. The member may request a receipt for delivery.
- e. A quorum shall be required only if so stated in the governing documents 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.

- f. Except for the meeting to count the votes required in Civil Code section 5120(a), an election may be conducted entirely by mail unless otherwise specified in the governing documents.
- g. Proxies shall not be allowed or used in any election.
- h. In an election to approve an amendment of the governing documents, the text of the proposed amendment showing the proposed changes shall be delivered to the members with the ballot.
- i. A ballot may not be denied to a member for any reason other than not being a member at the time when ballots are distributed.
- j. A ballot may not be denied to a person with general power of attorney for a member.
- k. The ballot of a person with general power of attorney for a member must be counted if returned in a timely manner.
- l. If a member attends the meeting of members, the ballot may be delivered personally to the inspector of elections at any time after the meeting is called to order up until the time the voting is closed by the inspector of election.
- m. Once a secret ballot is received by the inspector of elections, it shall be irrevocable.
- n. The sealed ballots, signed voter envelopes, voter list, proxies and candidate registration list shall at all times be in the custody of the inspector of elections or at a location designated by the inspector until after the tabulation of the vote, and until the time allowed by Civil Code section 5145 for challenging the election has expired, at which time custody shall be transferred to the Association.
- o. 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 elections, or the designee of the inspector of elections, may verify the member's information and signature on the outer envelope prior to the meeting at which ballots are tabulated.
- p. As each outer voter envelope with the member's information and signature is received, a written record shall be made of the date each such envelope was received for that particular lot and tract number. The ballot inside the first such voter envelope received for any lot and tract number shall be the one that is opened, counted and tabulated by the inspector of elections, or the designee of the inspector of elections. Any subsequently received voter envelopes and ballots for the same lot and tract number shall be deemed invalid, but shall be retained by the inspector of elections and the Association as required by law.
- q. All votes shall be counted and tabulated by the inspector of elections, or the designee of the inspector of elections, in public at a properly noticed open meeting of the board or members. Any candidate or other member of the Association may witness the counting and tabulation of the votes.

## 9. POST-ELECTION MATTERS

- a. The tabulated results of the election shall be promptly reported to the board and shall be recorded in the minutes of the next meeting of the board and shall be available for review by members of the Association. Within 15 days of the election, the board shall post in the lobby, post on the Association's website, and give general notice pursuant to Civil Code section 4045 the tabulated results of the election.
- b. If there is 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 an Association member or the member's authorized representative. In order to protect the integrity of the ballots, the Inspector of Election and the Association may observe and monitor any such inspection and review. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.
- c. The Association shall retain, as Association election materials, both the candidate registration list and the voter list.
- d. These Election Rules may not be amended less than 90 days prior to an election.

### CERTIFICATION

The undersigned certifies that the above Election Rules were duly adopted by the Pine Mountain Club Property Owners Association, Inc.'s Board of Directors at its meeting on December 18, 2021.

Dated: Jan 14, 2022

Pine Mountain Club Property Owners Association, Inc.

By: P. Hoyt-Voelker  
Peggy Hoyt Voelker, Corporate Secretary