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**RESOLUTION OF THE BOARD OF DIRECTORS OF
HERITAGE RANCH OWNERS ASSOCIATION
RE: ADOPTION OF ELECTION RULES**

WHEREAS, Article IX, Section 1 of the Bylaws gives the Board of Directors the powers and duties necessary to conduct the affairs of the Association and to make such rules and regulations as the Directors deem in the best interests of the Association; and

WHEREAS, pursuant to Civil Code §4360(a), the Board provided Association members thirty-one (31) days' notice so members could review the proposed Election Rules and offer comments. Members received notice on January 28, 2020; and

WHEREAS, the Board considered the comments from the members before determining whether to adopt the proposed Election Rules; and

WHEREAS, the Purpose and Effect of these Election Rules are: Beginning on January 1, 2020, new California laws became effective that require modification to the Association's election process. The purpose of the proposed Election Rules is to establish new Election Rules which conform to the law changes. The effect will be to provide the Board and Association members with legally compliant election policies and procedures; and

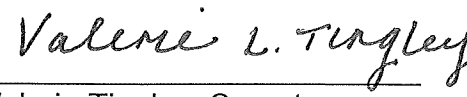
WHEREAS, a notice of adoption will be sent to members within 15 days, and the Election Rules will become effective on February 27, 2020.

NOW, THEREFORE BE IT RESOLVED that these Election Rules are adopted by the Board of Directors at the Special Meeting held on February 27, 2020.

By:


Michael Bright, President

Attested:


Valerie Tingley, Secretary

ELECTION RULES
HERITAGE RANCH OWNERS ASSOCIATION
a California nonprofit corporation

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ELECTION RULES
HERITAGE RANCH OWNERS ASSOCIATION
a California nonprofit corporation

These Election Rules revoke all previous election rules, and all amendments thereto, and substitute in their place these Election Rules.

ARTICLE 1: DEFINITIONS

- 1.1 “Association” means the Heritage Ranch Owners Association, a California nonprofit corporation.
- 1.2 “Board” or “Board of Directors” means the Board of Directors of the Association.
- 1.3 “Bylaws” means the Association’s bylaws.
- 1.4 “CC&Rs” means the Association’s declaration as the term is defined in the Davis-Stirling Act.
- 1.5 “Director” means any member of the Association’s Board of Directors.
- 1.6 “Davis Stirling Act” means and refers to the Davis-Stirling Common Interest Development Act which is the portion of the California Civil Code beginning with Section 4000 that governs common interest developments.
- 1.7 “Inspector of Election” means an inspector of elections as defined in the Davis-Stirling Act.
- 1.8 “Member” means a voting Member of the Association as defined in the Association’s CC&Rs.
- 1.9 “Separate Interest” means a separate interest pursuant to the Association’s CC&Rs and the Davis-Stirling Act.

ARTICLE 2: MEMBERSHIP MEETINGS

- 2.1 Generally.
- a. *Annual Meetings.* The Association must hold an annual meeting each year to conduct any Association business requiring a membership vote. Such meetings may include Director elections, or other types of elections. The Board must set the date and hour to hold such meetings. Until such time as the Bylaws are amended to provide otherwise, annual meetings shall occur on the third Saturday in August.
- b. *Special Meetings.* Special meetings may be called for any lawful purpose by any of the following: (i) President of the Association, (ii) majority of the Board, or (iii) Members constituting at least five percent (5%) of the voting power of the Association, or as required by law. If a special meeting is called by Members of

the Association, the request must be submitted to the Board in writing, specifying the nature of the business to be transacted. The Director or officer receiving the request must promptly deliver the request to the remaining Directors.

c. *Date, Time and Location of Meetings.*

- i. *Selected by the Board.* Annual and special membership meetings will be held at the offices of the Association within the development or at a reasonable location within the development in or reasonably close to the Association. In the event that the Bylaws are amended to so provide, annual and special membership meetings may also be held at such other suitable location reasonably close to the Association.
- ii. *Selected by the Membership.* If the date, time and/or location of a membership meeting selected by petitioning Members is unreasonable or contrary to the governing documents and/or statutory requirements, the Board is empowered to reschedule the date, time and/or location to something reasonable, relatively close to the original date, time and location requested by the Members calling the meeting, and compliant with the governing documents and statutory requirements.

2.2 Notice Requirements.

- a. *Notice of Special Meetings Called by the Board.* Except where one or more different periods are required by superseding provisions of the Davis-Stirling Act, all the following requirements apply: Notice of special meetings called by the Board must be given not less than ten (10) days nor more than ninety (90) days before the date of the meeting. If action is to be taken at the meeting, secret ballots must be mailed to every member not less than thirty (30) days prior to the deadline for voting.
- b. *Notice of Special Meetings Called by Petition of the Members.* Except where one or more different periods are required by superseding provisions of the Davis-Stirling Act, all the following requirements apply: Notice of special meetings called by the Members must be given by the Board within twenty (20) days after the Board's receipt of such request. If the Board fails to give notice, the persons calling the special meeting may give notice consistent with these Election Rules. The special meeting must be held not less than thirty-five (35) days nor more than ninety (90) days following the Board's receipt of the request. If action is to be taken at the meeting, secret ballots must be mailed to every member not less than thirty (30) days prior to the deadline for voting.
- c. *Notice Contents.* The notice must 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.

- d. *Delivery.* Notice of any membership meeting must be given as follows:
- i. *Method of Delivery.* Either personally, by electronic transmission (when consented to by the Member) or by first-class mail, charges prepaid.
 - ii. *Location of Delivery.* To the Member: (a) at a primary or secondary address stated in a written notice provided by the Member to the Association pursuant to Civil Code §4041(a); or (b) if the Member fails to provide such notice, the last address provided in writing by the Member; or (c) if none of the above, the address of the Member's Separate Interest.
 - iii. *Delivery Deemed Given.* Notice of a membership meeting is deemed given when delivered personally, deposited in the mail, or upon completion of electronic transmission to those Members who have consented to same.

2.3 Chair of Meeting. The President of the Board must call the membership meeting to order and must chair the meeting unless the President or a majority of the Board selects another person to chair the meeting.

2.4 Quorum. The quorum requirement for membership meetings is twenty-five percent (25%) of the voting power of the Association. The Members may be represented in person, by ballot, or by proxy. When a quorum is present, the affirmative vote of a majority of the voting power represented at the meeting, entitled to vote and voting on any matter, is an act of the Members unless the vote of a greater number is required by the Association's articles, Bylaws, CC&Rs or law. Under the Davis-Stirling Act, the quorum for an election to approve an assessment increase is more than fifty percent (50%) of the members.

2.5 Lack of Quorum. In the absence of a quorum at the beginning of a membership meeting, no business may be transacted except to adjourn the meeting to another date and time. A majority of the Members present and entitled to vote may adjourn the meeting, if at any meeting of the Association a quorum is not present. An adjournment for lack of a Quorum must be to a date not more than forty-five (45) days from the date the original meeting was called. If a new record date is fixed for notice or voting after the adjournment, a notice of the adjourned meeting must be given to each Member who, on the record date for notice of the meeting, is entitled to vote at the meeting.

2.6 Loss of Quorum. The Members present at a duly called membership meeting at which a quorum is initially present may continue to transact business until adjournment, notwithstanding the loss of quorum. The business must be approved by enough Members to constitute at least a majority of a quorum had a quorum been present.

ARTICLE 3: DIRECTORS

3.1 Number and Term of Directors. The Board will consist of five (5) Directors. The term of each Director is two (2) years and until a qualified successor is elected to fill his/her seat.

Three (3) Directors are to be elected in even-numbered years and two (2) Directors are to be elected in odd-numbered years.

3.2 Candidate and Director Qualifications. Members must meet the qualifications in the subsections hereafter to be eligible for nomination as a candidate for, or to serve as a Director, on the Board.

- a. *Candidates Must be Members.* The Association must disqualify the nomination of a candidate who is not a Member of the Association at the time of nomination.
- b. *Prior Ownership for One Year.* To be eligible for nomination and/or to serve on the Board, a candidate for the Board or serving as a Director must be the record Owner of a Separate Interest for a period of at least one year, proof of which must be a recorded deed. Persons holding a fee simple interest in a Separate Interest merely as security for the performance of an obligation are not eligible to either be a candidate for or to serve on the Board.
- c. *Member in Good Standing.* To be eligible for nomination and/or to serve on the Board, the person or impersonal entity must not be delinquent by more than thirty (30) days in the payment of any regular or special Assessment (following proper notice, hearing, and a finding by the Board), except:
 - i. A person may not be disqualified from nomination for nonpayment of fines, fines characterized as assessments, collection charges, late charges or costs levied by a third party.
 - ii. A person may not be disqualified from nomination because the person has paid the regular or special assessment under protest.
 - iii. A person may not be disqualified from nomination due to delinquent assessments if the person has entered into a payment plan with the Association pursuant to Civil Code §5665 and is fulfilling the terms of the payment plan.
- d. *Co-Owners Eligible for Only One Position.* To be eligible for nomination and/or to serve on the Board, the person or impersonal entity must not have a record fee simple ownership interest in a Separate Interest which is part of the Development with another person or impersonal entity concurrently serving as a Director. Where two or more co-Owners concurrently seek election to the Board, only the first nomination will be effective.
- e. *Criminal Conviction.* A person who has disclosed, or concerning whom the Board has become aware, of a past criminal conviction that would, if the person is elected, either prevent the Association from purchasing the fidelity bond coverage required by Civil Code Section 5806, or any successor statute, or which conviction would cause such coverage to be terminated, is ineligible for nomination to the Board. Each nominee, at the time of nomination, shall disclose the existence of any past criminal conviction and the details thereof, with

sufficient details in order to allow the Association to determine whether the criminal conviction will prevent the Association from purchasing the required fidelity bond coverage.

- f. *Internal Dispute Resolution.* Before any candidate for nomination or serving Director may be disqualified, the person or impersonal entity must be provided the opportunity to engage in internal dispute resolution as provided in the Davis-Stirling Act.

3.3 Impersonal Entities. If title to a Separate Interest 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 the purpose of candidacy or serving on the Board. The designation by the impersonal legal entity must be in writing, in accordance with the Association's governing documents, with documentation confirming both the designation and its authority to do so.

3.4 Trusts. If title is held in the name of one or more trustees, subject to a trust, a sole trustee or one of several trustees are permitted to be a candidate for a position on the Board or to serve on the Board subject to all qualifications and/or requirements of the Association's governing documents and/or the law. The designation of one of several trustees must be in writing, in accordance with the Association's governing documents, with documentation confirming both the designation and the authority of the designator to do so.

3.5 One Directorship Only. No current Director may hold multiple positions on the Board. Any Director, whose term extends beyond a current election and who wishes to become a candidate for that election, must first resign his/her seat on the Board. This rule does not apply to a candidate whose term is expiring and who wishes to run for re-election.

ARTICLE 4: INSPECTOR(S) OF ELECTION

4.1 Selection.

- a. *Process.* Prior to the date ballots are first sent out, the Board of Directors must, at an open meeting of the Board, select either one (1) or three (3) persons as Inspector(s) of Election.
- b. *Eligible Inspector(s).* The Board may select as Inspector(s) of Election, any person or entity or subdivision of a business entity not currently employed or under contract to the Association. Eligible Inspectors include, but are not limited to:
 - i. Poll Workers. A volunteer poll worker with the County Registrar of Voters;
 - ii. Accountants. A licensee of the California Board of Accountancy, not under contract to the Association;

- iii. Notary Public. A notary public commissioned by the California Secretary of State.
- iv. 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;
- v. Professional Inspectors. Third party persons or entities who provide professional election services who contract with the Association solely to serve as an Inspector of Election.

4.2 Duties. Duties of Inspector(s) of Election include the following:

- a. *Membership.* Determine the number of memberships entitled to vote and the voting power of each.
- b. *Validity of Proxies.* Determine the authenticity, validity and effect of proxies, if any.
- c. *Closing and Reopening of Polls.* Determine when the polls close, including any desired extensions of the voting period, and determine whether to reopen the polls to allow Members to cast ballots if the polls were previously closed, all consistent with the Association's other governing documents.
- d. *Receive Ballots.* Receive all ballots. Once received by an Inspector of Election, ballots are irrevocable.
- e. *Custody.* Sealed ballots, signed voter envelopes, voter list, proxies, and candidate registration list shall at all times 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 5145 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, is permitted to open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated. The Inspector(s) of Election or the Inspector(s) appointee(s) may verify the Member's information and signature on the outer envelope prior to the meeting at which ballots are tabulated.
- f. *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(s) of Election must make the ballots available for inspection and review by an Association Member or the Member's authorized representative, upon written request. An Association Member may authorize a representative to review the ballots on his or her behalf. Any recount must be conducted in a manner that preserves the confidentiality of the vote.

- g. *Counting Ballots.* Count and tabulate all votes. All votes must be counted and tabulated by the Inspector(s) of Election or the Inspector(s) appointee(s) in public at a properly noticed open meeting of the Board of Directors or Members. Candidates and Members may witness, but not interfere with, the counting and tabulation of the votes from at least two (2) feet away from the Inspector(s) and his/her/their appointee(s).
- h. *Appoint Assistants.* Appoint and oversee additional independent third parties to verify signatures, and to count and tabulate votes as the Inspector(s) of Election deem appropriate provided that such persons are independent third parties.
- i. *Results.* Determine the tabulated results of the election.
- j. *Impartiality.* Perform all duties impartially, in good faith, to the best of the ability of the Inspector(s) of Election, 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(s) of Election is prima facie evidence of the facts stated in the report.
- k. *Miscellaneous.* Perform any acts as may be proper to conduct the election with fairness to all Members in accordance with the Civil Code, 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 the Civil Code.

4.3 Removal. The Board has the power to remove any Inspector(s) who ceases to meet the required qualifications, are unable or unwilling to perform their duties, or for any other good reason, and to appoint one or more replacement Inspectors.

ARTICLE 5: NOMINATIONS

5.1 Nomination Procedures and Notice. Prior to the election of Directors, the Board must, by written notice to all Members, solicit nominees. The solicitation must include the "Candidate and Director Qualifications" described above and provide general notice of the procedure and deadline for submitting a nomination. The deadline must be at least thirty (30) days after giving notice. Delivery of the solicitation must be given by individual notice, pursuant to Civil Code §4040, if individual notice is requested by a Member before the solicitation is given. Nominees must be listed as candidates on the ballot provided (i) they meet candidate and Director qualifications and (ii) their nomination is made prior to the date and time set for the close of nominations.

5.2 Self-Nomination. Any qualified person 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 person nominating himself or herself. The Association must set a cut-off date for the receipt of self-nomination statements, which date must be publicized in advance to the Members.

5.3 No Write-Ins or Floor Nominations. Once nominations have been closed, no write-ins are allowed on ballots and no floor nominations can be made at the ballot counting meeting.

5.4 Uncontested Elections. In any election where the number of qualified candidates nominated exceeds the number of positions to be filled, voting for Directors must be done by secret written ballot. When, at the close of nominations, the number of qualified candidates nominated does not exceed the number of vacancies, the candidates may be declared elected, without need for balloting, and will take their seats on the date set for the Annual membership meeting.

ARTICLE 6: BALLOTS AND PROXIES

6.1 Voting Rights.

- a. *Number of Votes.* Each Member is entitled to one (1) vote per Separate Interest on all matters presented to the Members for a vote.
- b. *Record Date.* For Membership elections where a secret ballot is required under the law, and any other Membership election where the Board has not set a Record Date for the election, the Record Date will be the date ballots are distributed to the Membership. Only owners on title on the Record Date are entitled to vote. Persons acquiring title after the Record Date may attend the election meeting but are not entitled to vote. For any Membership election where a secret ballot is not required under the law, the Board is permitted to set a Record Date for an election no more than sixty (60) days before the date of the election meeting.
- c. *Proof of Membership.* No person or entity may exercise the rights of membership without an ownership interest in a Separate Interest subject to Association's CC&Rs. If the Board requests proof of ownership, the required proof is a recorded deed showing the required ownership or, if the property was transferred within the past thirty (30) days and a copy of the newly recorded deed is not yet available, a completed escrow closing statement is sufficient.
- d. *Cumulative Voting.* So long as Article III, Section 3 or any other provision of the CC&Rs allow for cumulative voting, every Member is permitted to cumulate his vote and give one (1) candidate the total number of votes to which the Member is entitled to cast or may distribute the Member's votes among the candidates as desired. At such time as the CC&Rs no longer contain such possibility for cumulative voting, cumulative voting shall not be permitted.
- e. *Co-Owners.* Where there is more than one owner of a Separate Interest subject to the Association's CC&Rs, all such co-Owners are Members and may attend any meeting of the Association, but only one co-Owner is entitled to exercise the vote to which the Separate Interest is entitled. Fractional votes are not permitted. In the event more than one ballot is cast for a particular Separate Interest, only the first ballot received will be opened and counted.

- f. *Presumption of Consent.* Unless the Inspector(s) of Election receive a written objection prior to the close of balloting from a co-owner, it is conclusively presumed that a voting owner acted with the consent of his or her co-owners.
- g. *Voting for Properly Nominated Candidates.* Members must vote only for those candidate(s) who have been properly nominated prior to the close of nominations.

6.2 Proxies.

- a. *Generally.* The Association may use and accept proxies as permitted by law and the Association's governing documents, provided that the Association is not required to prepare or distribute proxies. Proxies are not permitted to be construed or used in lieu of a ballot at a meeting.
- b. *Proxy Form.* Proxies must meet all requirements of the Davis-Stirling Act, other laws, and the Association's governing documents.
- c. *Who May Be Proxyholder?* As provided for in Civil Code §5130(a)(1), proxyholders must be Members.

6.3 Pre-Ballot Notice. At least 30 days before the ballots are distributed, the Association must provide general notice (or individual notice to a Member who requested it) which includes:

- a. The date, time and physical address to mail or hand deliver ballots to the Inspector(s);
- b. The date, time and location of the ballot counting meeting; and
- c. A list of candidates to appear on the ballots.

6.4 Candidate List and Voter List. The Association must retain, as Association election materials, both a candidate registration list and a voter list. The voter list must 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.

6.5 Verification of Lists. The Association must permit Members to verify the accuracy of their individual information on the candidate registration list and the voter list at least 30 days before the ballots are distributed. The Association or Member must report any errors or omissions to either list to the Inspector(s) of Election who must make the corrections within two business days. Reports of any errors or omissions should be made early enough to allow for corrections to be made before the ballots are distributed.

6.6 Secret Ballots. All ballots mailed or otherwise delivered to the membership must include a double-envelope system and voting instructions for returning the ballots as provided for in the Davis-Stirling Act, and must be mailed by first-class mail or delivered to every Member entitled to vote at least thirty (30) days before the initial voting deadline. Ballots

seeking approval to amend or restate governing documents must be delivered to the Members with the text of the proposed amendment.

- a. *Signature.* Ballots do not require a signature. Ballots signed by Members remain valid.
- b. *Inner Envelope.* The Association will provide two envelopes. To preserve secrecy, the ballot is to be placed within an inner envelope with no identifying information. However, information written on the inner envelope by a Member will not invalidate the ballot. The inner envelope containing the ballot is to be placed into a second “outer” envelope containing identifying information.
- c. *Outer Envelope.* In the upper left-hand corner of the outer envelope, the voting Member must sign his/her name and indicate (print, type, etc.) his/her name and the address entitling the voter to vote. The outer envelope must be addressed to the Inspector(s) of Election.
- d. *Delivery.* The outer envelope may be mailed to the address on the envelope or delivered to a location specified by the Inspector(s) of Election. The Member may request a receipt for delivery.

6.7 Election Rules. At least 30 days before the voting deadline, the Inspector(s) of Election must deliver, or cause to be delivered, the election operating rules to all Members. Such rules may be delivered (1) by individual delivery (Civil Code §4040) or (2) by posting the rules on an internet website and including the website address (URL) on the ballot with the phrase, in at least 12-point font: “The rules governing this election may be found here:”

6.8 Power of Attorney. The Association cannot deny a ballot to a person with general power of attorney for a Member. The ballot of a person with a general power of attorney must be counted if timely returned.

6.9 Quorum by Ballot. Each ballot received by an Inspector(s) of Election within a properly completed outer envelope from a Member is deemed as a Member present at a meeting for purposes of establishing a quorum.

ARTICLE 7: CAMPAIGNING

7.1 Access to Media.

- a. *Use of Association Resources.*
 - i. *Association Media.* Neither candidates nor Members may use the Association’s newsletter, website, any other Association media for campaign purposes.
 - ii. *Membership List.* Candidates and Members have the right to request a copy of the Association’s membership list for the purposes of distributing, at their own expense, materials which advocate a point of view reasonably

related to an election, or as otherwise permitted by Civil Code §4515. Candidates and Members also have the right to contact Members who have opted out of the membership list through the alternate means of communication permitted under Cal. Civ. Code §5220 for the purposes of distributing, at their own expense, materials which advocate a point of view reasonably related to the election or as otherwise permitted by Civil Code §4515.

- b. *Exception.* If any candidate or Member is provided access to Association newsletters, website, or other Association media during an election, or given permission to post campaign material in the common area for purposes that are reasonably related to that election, equal access must be provided to all candidates and Members. The access is limited to information relating to that election and cannot exclude those candidates and Members not endorsed by the Board. The Association is not permitted to edit or redact any content from these communications but is permitted to include a statement that the candidate or Member, and not the Association, is responsible for that content. The Association and its Directors, officers, and agents are immune from liability for the content of those communications to the fullest extent provided by law.

7.2 Use of Common Area During Election Campaign.

- a. *Purpose.* Regarding any Association election, each candidate, Member, or resident is permitted to use, if available, the Association's common area at no cost for a purpose relating to Association elections as described in Civil Code §4515, including to advocate a point of view reasonably related to the election.
- b. *Reservation.* Each candidate, Member, or resident, who wants to use the common area pursuant to *Civil Code* §§4515 or 5105 must make a reservation in advance of the date and time requested. Such requests to use the common area are 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 (2) hours on any particular date. In addition, each candidate or Member is permitted to make only one (1) reservation per day to use the common area. The Association office maintains a reservation calendar.

7.3 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 is not permitted to include the photograph or prominently feature the name of any candidate on a communication from the Association or its Board. Directors, in their capacities as Members, are permitted to advocate for the election or defeat of any issue or candidate on the ballot at their own expense and are not permitted to use Association funds for that purpose in any capacity.

7.4 Improper Electioneering.

- a. *Prohibited Activities.* In addition to any of the prohibitions under this article, candidates, Members, and residents, including their tenants, families, employees, agents, visitors, licensees, or servants are prohibited from engaging in any of the following activities:
 - i. Causing any printed campaign or other election related materials to be placed upon or affixed to (1) resident's vehicles, (2) common area walls, doors, or windows, (3) mail boxes or mail box structures, (4) or any portion of the common area not expressly permitted in these rules without prior authorization from the Board or management;
 - ii. Attempt to solicit either a vote or proxy from another Member, or their power of attorney, through deceit, harassment, intimidation, improper influence, undue coercion, or force;
 - iii. Attempt to prevent a Member from casting a vote or delegating their proxy rights through deceit, harassment, intimidation, improper influence, undue coercion, or force;
 - iv. Interfere with the counting or tallying of votes;
 - v. Solicit the vote of a Member while in that Member's immediate presence or residence and during the time he or she knows the Member is voting;
 - vi. Induce other Members to divert ballots away from the Inspector(s) of Election; or
 - vii. Interfere with any candidate's ability to distribute authorized campaign materials.
- b. *Report Violations.* Members are encouraged to report any electioneering violations they witness to the Board or management.
- c. *Fines.* The Board is permitted to levy a fine of up to \$100 for each violation of this section.

ARTICLE 8: CANVASSING AND PETITIONING

8.1 Generally. Canvassing and petitioning the Members, the Board, and residents for purposes permitted in Civil Code §4515, by telephone and/or personal visits to private residences in the development, is limited to the hours of 9:00 a.m. until 9:00 p.m. However, any Member or resident who declines to be contacted on any issue, including for a purpose specified in Civil Code §4515, must not be contacted by telephone or personal visits thereafter.

8.2 Impermissible Conduct. Nothing in this section permits a Member or resident to contact another Member or resident in a manner that constitutes a breach of the Member's or resident's quiet enjoyment, or a nuisance.

ARTICLE 9: DISTRIBUTING INFORMATION

9.1 Generally. Reasonably distributing and circulating information for any purposes described by Civil Code §4515, is permitted and restricted as follows:

- a. Members or residents may distribute or circulate printed information for purposes specified in Civil Code §4515 to other Members or residents by (1) mail, (2) placing printed materials under front doors, front door mats, and/or behind screen doors, and (3) handing out printed material in the common area to Members and residents willing to accept such materials. The handing out of materials in the common area may be conducted only between the hours of 9:00 a.m. and 9:00 p.m.
- b. Member and residents may not cause any printed materials, including those for any purposes specified in Civil Code §4515, to be placed upon or affixed to (1) resident's vehicles, (2) common area walls, doors, windows or other surfaces, (3) mail boxes or mail box structures, (4) or in any portion of the common area not expressly permitted in these rules without prior authorization from the Board or management.
- c. Members and residents distributing and circulating printed materials permitted in these rules, such as those left at front doors or in other permissible locations in the development, are responsible to collect and discard any such materials that remain uncollected after twenty-four (24) hours from distribution or circulation.

ARTICLE 10: PETITIONS

10.1 Purpose. The purpose of the petition for a membership meeting must be set forth in the petition so Members know what they are signing. Meetings may only be called for a proper purpose.

10.2 Signatures. Only Members may sign petitions. Signatures by persons not on title are invalid. The Association may validate signatures by comparing them against signatures on file with the Association or by contacting signers to verify their signatures. Any person on title to a property can sign on behalf of the property but it counts only once. For example, if there are ten owners on title for one unit, all of whom sign a petition, it counts as one signature not ten.

10.3 Invalidity of Signatures. A petition can be rendered invalid if a sufficient number of signatures are found invalid or rescinded for good cause (such as fraud, mistake, undue influence or other valid grounds for rescission), such that the number of remaining signatures falls below 5% of total voting power of the membership.

10.4 Setting the Date. The date of the special meeting for a recall must be set in the manner provided for in these Election Rules above and the law.

10.5 Recall Petitions. Recalls are not permitted to be started against the Board as a whole or any individual Director if: (a) the Board or Director has held office during the current term for less than ninety (90) days; (b) a recall election has been determined in the Board's or Director's favor within the last six (6) months; (c) for the recall of a Board, when an annual meeting will be held within six (6) months or less or (d) for the recall of individual Directors, when their term will end within six (6) months or less. Additionally, if a recall of the entire Board fails, a six (6)-month waiting period must be observed before recall petitions may be filed against individual Directors who served on that Board.

ARTICLE 11: POST-ELECTION RESULTS

11.1 Breaking a Tie. In the event of a tie leaving the outcome of the election unresolved, the following will apply:

- a. The Inspector(s) of Election, and any appointee(s), will immediately conduct a recount of the ballots. If there is a charge, the Association will bear the expense. Members may observe the recount under the same conditions as the original ballot counting.
- b. Following the immediate recount, if the tie remains, all other newly elected Directors will immediately begin serving their terms. An incumbent Director whose seat was tied will continue in office until a runoff election determines the winner for his/her seat. Only candidates who tied for the seat will be in the runoff.

11.2 Results of an Election. The tabulated results of the election must be announced immediately after all the ballots have been counted. The tabulated results of the election must be promptly reported to the Board of Directors and must be recorded in the minutes of the next Board meeting. Within fifteen (15) days of the election, the Board must publicize the tabulated results of the election in a communication directed to all Members.

11.3 Status of the Election Materials after Election. The sealed ballots, signed voter envelopes, voter list, proxies, and candidate registration list shall at all times 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 5145 for challenging the election has expired, at which time custody shall be transferred to the Association. If there is a recount or other challenge to the election process, the Inspector(s) of Election shall, upon written request, make the ballots available for inspection and review by an Association Member or the Member's authorized representative. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.

11.4 Election Recount. Election recounts, other than the automatic recount following a tie leaving the outcome of an election unresolved, will be conducted as follows:

- a. Any Member of the Association may demand a recount of the ballots provided (i) demand is made in writing to the Inspector(s) of Election within five (5) days

after the election results have been announced, and (ii) the Member pays in advance for the estimated cost of the recount which estimate will be provided by the Inspector(s) of Election. Monies advanced by the Member must be refunded if the outcome of the election is changed by the recount.

- b. The recount must be commenced no less than seven (7) days following the request for the recount and must be done by or under the supervision of the Inspector(s) of Election. If any Inspector of Election declines to perform the recount, the Board may appoint a replacement Inspector of Election, using the criteria specified in these rules and the replacement Inspector will assume custody of the ballots.
- c. Any recount may be observed by Members of the Association. No election materials may be touched or handled by any person without the express consent of the Inspector(s) of Election and under the supervision of the Inspector(s). The results of the recount must be reported to the Board of Directors and must be recorded in the minutes of the next Board meeting and reported to the membership.

ELECTION RULES
HERITAGE RANCH OWNERS ASSOCIATION
a California nonprofit corporation



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ELECTION RULES
HERITAGE RANCH OWNERS ASSOCIATION
a California nonprofit corporation

These Election Rules revoke all previous election rules, and all amendments thereto, and substitute in their place these Election Rules.

ARTICLE 1: DEFINITIONS

- 1.1 “Association” means the Heritage Ranch Owners Association, a California nonprofit corporation.
- 1.2 “Board” or “Board of Directors” means the Board of Directors of the Association.
- 1.3 “Bylaws” means the Association’s bylaws.
- 1.4 “CC&Rs” means the Association’s declaration as the term is defined in the Davis-Stirling Act.
- 1.5 “Director” means any member of the Association’s Board of Directors.
- 1.6 “Davis Stirling Act” means and refers to the Davis-Stirling Common Interest Development Act which is the portion of the California Civil Code beginning with Section 4000 that governs common interest developments.
- 1.7 “Inspector of Election” means an inspector of elections as defined in the Davis-Stirling Act.
- 1.8 “Member” means a voting Member of the Association as defined in the Association’s CC&Rs.
- 1.9 “Separate Interest” means a separate interest pursuant to the Association’s CC&Rs and the Davis-Stirling Act.

ARTICLE 2: MEMBERSHIP MEETINGS

- 2.1 Generally.
- a. *Annual Meetings.* The Association must hold an annual meeting each year to conduct any Association business requiring a membership vote. Such meetings may include Director elections, or other types of elections. The Board must set the date and hour to hold such meetings. Until such time as the Bylaws are amended to provide otherwise, annual meetings shall occur on the third Saturday in August.
- b. *Special Meetings.* Special meetings may be called for any lawful purpose by any of the following: (i) President of the Association, (ii) majority of the Board, or (iii) Members constituting at least five percent (5%) of the voting power of the Association, or as required by law. If a special meeting is called by Members of

meeting, those matters which the Board intends to present for action by the Members.

- d. *Delivery.* Notice of any membership meeting must be given as follows:
- i. *Method of Delivery.* Either personally, by electronic transmission (when consented to by the Member) or by first-class mail, charges prepaid.
 - ii. *Location of Delivery.* To the Member: (a) at a primary or secondary address stated in a written notice provided by the Member to the Association pursuant to Civil Code §4041(a); or (b) if the Member fails to provide such notice, the last address provided in writing by the Member; or (c) if none of the above, the address of the Member's Separate Interest.
 - iii. *Delivery Deemed Given.* Notice of a membership meeting is deemed given when delivered personally, deposited in the mail, or upon completion of electronic transmission to those Members who have consented to same.

2.3 Chair of Meeting. The President of the Board must call the membership meeting to order and must chair the meeting unless the President or a majority of the Board selects another person to chair the meeting.

2.4 Quorum. The quorum requirement for membership meetings is twenty-five percent (25%) of the voting power of the Association. The Members may be represented in person, by ballot, or by proxy. When a quorum is present, the affirmative vote of a majority of the voting power represented at the meeting, entitled to vote and voting on any matter, is an act of the Members unless the vote of a greater number is required by the Association's articles, Bylaws, CC&Rs or law. Under the Davis-Stirling Act, the quorum for an election to approve an assessment increase is more than fifty percent (50%) of the members.

2.5 Lack of Quorum. In the absence of a quorum at the beginning of a membership meeting, no business may be transacted except to adjourn the meeting to another date and time. A majority of the Members present and entitled to vote may adjourn the meeting, if at any meeting of the Association a quorum is not present. An adjournment for lack of a Quorum must be to a date not more than forty-five (45) days from the date the original meeting was called. If a new record date is fixed for notice or voting after the adjournment, a notice of the adjourned meeting must be given to each Member who, on the record date for notice of the meeting, is entitled to vote at the meeting.

2.6 Loss of Quorum. The Members present at a duly called membership meeting at which a quorum is initially present may continue to transact business until adjournment, notwithstanding the loss of quorum. The business must be approved by enough Members to constitute at least a majority of a quorum had a quorum been present.

ARTICLE 3: DIRECTORS

3.1 Number and Term of Directors. The Board will consist of five (5) Directors. The term of each Director is two (2) years and until a qualified successor is elected to fill his/her seat.

sufficient details in order to allow the Association to determine whether the criminal conviction will prevent the Association from purchasing the required fidelity bond coverage.

- f. *Internal Dispute Resolution.* Before any candidate for nomination or serving Director may be disqualified, the person or impersonal entity must be provided the opportunity to engage in internal dispute resolution as provided in the Davis-Stirling Act.

3.3 Impersonal Entities. If title to a Separate Interest 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 the purpose of candidacy or serving on the Board. The designation by the impersonal legal entity must be in writing, in accordance with the Association's governing documents, with documentation confirming both the designation and its authority to do so.

3.4 Trusts. If title is held in the name of one or more trustees, subject to a trust, a sole trustee or one of several trustees are permitted to be a candidate for a position on the Board or to serve on the Board subject to all qualifications and/or requirements of the Association's governing documents and/or the law. The designation of one of several trustees must be in writing, in accordance with the Association's governing documents, with documentation confirming both the designation and the authority of the designator to do so.

3.5 One Directorship Only. No current Director may hold multiple positions on the Board. Any Director, whose term extends beyond a current election and who wishes to become a candidate for that election, must first resign his/her seat on the Board. This rule does not apply to a candidate whose term is expiring and who wishes to run for re-election.

ARTICLE 4: INSPECTOR(S) OF ELECTION

4.1 Selection.

- a. *Process.* Prior to the date ballots are first sent out, the Board of Directors must, at an open meeting of the Board, select either one (1) or three (3) persons as Inspector(s) of Election.
- b. *Eligible Inspector(s).* The Board may select as Inspector(s) of Election, any person or entity or subdivision of a business entity not currently employed or under contract to the Association. Eligible Inspectors include, but are not limited to:
 - i. *Poll Workers.* A volunteer poll worker with the County Registrar of Voters;
 - ii. *Accountants.* A licensee of the California Board of Accountancy, not under contract to the Association;

- g. *Counting Ballots.* Count and tabulate all votes. All votes must be counted and tabulated by the Inspector(s) of Election or the Inspector(s) appointee(s) in public at a properly noticed open meeting of the Board of Directors or Members. Candidates and Members may witness, but not interfere with, the counting and tabulation of the votes from at least two (2) feet away from the Inspector(s) and his/her/their appointee(s).
- h. *Appoint Assistants.* Appoint and oversee additional independent third parties to verify signatures, and to count and tabulate votes as the Inspector(s) of Election deem appropriate provided that such persons are independent third parties.
- i. *Results.* Determine the tabulated results of the election.
- j. *Impartiality.* Perform all duties impartially, in good faith, to the best of the ability of the Inspector(s) of Election, 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(s) of Election is prima facie evidence of the facts stated in the report.
- k. *Miscellaneous.* Perform any acts as may be proper to conduct the election with fairness to all Members in accordance with the Civil Code, 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 the Civil Code.

4.3 Removal. The Board has the power to remove any Inspector(s) who ceases to meet the required qualifications, are unable or unwilling to perform their duties, or for any other good reason, and to appoint one or more replacement Inspectors.

ARTICLE 5: NOMINATIONS

5.1 Nomination Procedures and Notice. Prior to the election of Directors, the Board must, by written notice to all Members, solicit nominees. The solicitation must include the "Candidate and Director Qualifications" described above and provide general notice of the procedure and deadline for submitting a nomination. The deadline must be at least thirty (30) days after giving notice. Delivery of the solicitation must be given by individual notice, pursuant to Civil Code §4040, if individual notice is requested by a Member before the solicitation is given. Nominees must be listed as candidates on the ballot provided (i) they meet candidate and Director qualifications and (ii) their nomination is made prior to the date and time set for the close of nominations.

5.2 Self-Nomination. Any qualified person 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 person nominating himself or herself. The Association must set a cut-off date for the receipt of self-nomination statements, which date must be publicized in advance to the Members.

- f. *Presumption of Consent.* Unless the Inspector(s) of Election receive a written objection prior to the close of balloting from a co-owner, it is conclusively presumed that a voting owner acted with the consent of his or her co-owners.
- g. *Voting for Properly Nominated Candidates.* Members must vote only for those candidate(s) who have been properly nominated prior to the close of nominations.

6.2 Proxies.

- a. *Generally.* The Association may use and accept proxies as permitted by law and the Association's governing documents, provided that the Association is not required to prepare or distribute proxies. Proxies are not permitted to be construed or used in lieu of a ballot at a meeting.
- b. *Proxy Form.* Proxies must meet all requirements of the Davis-Stirling Act, other laws, and the Association's governing documents.
- c. *Who May Be Proxyholder?* As provided for in Civil Code §5130(a)(1), proxyholders must be Members.

6.3 Pre-Ballot Notice. At least 30 days before the ballots are distributed, the Association must provide general notice (or individual notice to a Member who requested it) which includes:

- a. The date, time and physical address to mail or hand deliver ballots to the Inspector(s);
- b. The date, time and location of the ballot counting meeting; and
- c. A list of candidates to appear on the ballots.

6.4 Candidate List and Voter List. The Association must retain, as Association election materials, both a candidate registration list and a voter list. The voter list must 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.

6.5 Verification of Lists. The Association must permit Members to verify the accuracy of their individual information on the candidate registration list and the voter list at least 30 days before the ballots are distributed. The Association or Member must report any errors or omissions to either list to the Inspector(s) of Election who must make the corrections within two business days. Reports of any errors or omissions should be made early enough to allow for corrections to be made before the ballots are distributed.

6.6 Secret Ballots. All ballots mailed or otherwise delivered to the membership must include a double-envelope system and voting instructions for returning the ballots as provided for in the Davis-Stirling Act, and must be mailed by first-class mail or delivered to every Member entitled to vote at least thirty (30) days before the initial voting deadline. Ballots

related to an election, or as otherwise permitted by Civil Code §4515. Candidates and Members also have the right to contact Members who have opted out of the membership list through the alternate means of communication permitted under Cal. Civ. Code §5220 for the purposes of distributing, at their own expense, materials which advocate a point of view reasonably related to the election or as otherwise permitted by Civil Code §4515.

- b. *Exception.* If any candidate or Member is provided access to Association newsletters, website, or other Association media during an election, or given permission to post campaign material in the common area for purposes that are reasonably related to that election, equal access must be provided to all candidates and Members. The access is limited to information relating to that election and cannot exclude those candidates and Members not endorsed by the Board. The Association is not permitted to edit or redact any content from these communications but is permitted to include a statement that the candidate or Member, and not the Association, is responsible for that content. The Association and its Directors, officers, and agents are immune from liability for the content of those communications to the fullest extent provided by law.

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- a. *Purpose.* Regarding any Association election, each candidate, Member, or resident is permitted to use, if available, the Association's common area at no cost for a purpose relating to Association elections as described in Civil Code §4515, including to advocate a point of view reasonably related to the election.
- b. *Reservation.* Each candidate, Member, or resident, who wants to use the common area pursuant to *Civil Code* §§4515 or 5105 must make a reservation in advance of the date and time requested. Such requests to use the common area are 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 (2) hours on any particular date. In addition, each candidate or Member is permitted to make only one (1) reservation per day to use the common area. The Association office maintains a reservation calendar.

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- b. Member and residents may not cause any printed materials, including those for any purposes specified in Civil Code §4515, to be placed upon or affixed to (1) resident's vehicles, (2) common area walls, doors, windows or other surfaces, (3) mail boxes or mail box structures, (4) or in any portion of the common area not expressly permitted in these rules without prior authorization from the Board or management.
- c. Members and residents distributing and circulating printed materials permitted in these rules, such as those left at front doors or in other permissible locations in the development, are responsible to collect and discard any such materials that remain uncollected after twenty-four (24) hours from distribution or circulation.

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10.3 Invalidity of Signatures. A petition can be rendered invalid if a sufficient number of signatures are found invalid or rescinded for good cause (such as fraud, mistake, undue influence or other valid grounds for rescission), such that the number of remaining signatures falls below 5% of total voting power of the membership.

after the election results have been announced, and (ii) the Member pays in advance for the estimated cost of the recount which estimate will be provided by the Inspector(s) of Election. Monies advanced by the Member must be refunded if the outcome of the election is changed by the recount.

- b. The recount must be commenced no less than seven (7) days following the request for the recount and must be done by or under the supervision of the Inspector(s) of Election. If any Inspector of Election declines to perform the recount, the Board may appoint a replacement Inspector of Election, using the criteria specified in these rules and the replacement Inspector will assume custody of the ballots.
- c. Any recount may be observed by Members of the Association. No election materials may be touched or handled by any person without the express consent of the Inspector(s) of Election and under the supervision of the Inspector(s). The results of the recount must be reported to the Board of Directors and must be recorded in the minutes of the next Board meeting and reported to the membership.

Terri Bruns

From: Tina Platt
Sent: Wednesday, July 8, 2020 12:11 PM
To: Terri Bruns
Subject: FW: Heritage Ranch - election rule errata
Attachments: HROA - SB323 election rules, 2.pdf

FYI Terri – please read below and let's discuss.

Tina A. Platt, CCAM, CMCA
General Manager
Heritage Ranch Owners Association
New Address
2130 Heritage Loop Road
Paso Robles, CA 93446
tplatt@hroa.us

From: Nancy I. Sidoruk <nsidoruk@adamsstirling.com>
Sent: Wednesday, July 8, 2020 11:55 AM
To: Tina Platt <tplatt@hroa.us>
Cc: Adrian Adams <aadams@adamsstirling.com>
Subject: Heritage Ranch - election rule errata

Attorney-Client Privileged Communication

Tina,

Attached is an updated set of election rules to address the write-in topic.

In our opinion, the approach most likely to minimize owner complaints and questions is for the Board to treat the attached document as an "errata" set provided by the law firm, which should simply be published when the Inspector complies with the requirement to election rule delivery requirement of Civil Code section 5105(g)(4) at least 30 days prior to the election. I don't know if the ballots have already gone out or if the Inspector intends to deliver the rules by individual delivery or by reference to their online posted location, but this is the opportunity to provide the updated document to the membership. The Board really has no discretion as to the corrections made, due to complementary governing document and Civil Code provisions on write-ins, so the errata corrections really aren't changes (more on that below). After all, as currently written, application of the rules would still need to defer to the superior requirement for allowing a write-in space.

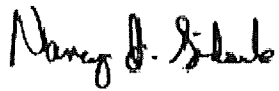
For your easy reference, the corrections are limited to the following: revised Table of Contents page ii (Article 5, modifying title of Section 5.3 and removing Section 5.4), numbered page 8, Section 5.3 (to state the requirement for the write-in space, but otherwise keeping the remainder of that section as it was, prohibiting floor nominations), and numbered page 8, Section 5.4 (deleted, since with the ability to have write-ins it is impossible to know if the election is uncontested until ballots are opened – because of the possibility of write-ins).

Alternatively, if the Board prefers to treat the attached document as a "change" or "amendment," that would mean treating it in a way that would kick in the SB 323 prohibition on amending election rules less than 90 days before an election...thus compelling delay of the election. If the Board took this alternative approach, which might be a more conservative strategy for avoiding any question as to whether the "errata" corrections could arguably be a "change" or

“amendment,” in this election context it could actually create further concerns among disgruntled members who’d view it as the Board attempting to “stay in power” for longer without conducting an election.

Let us know if there are any questions about these comments, the attached document, election or other matters. This email and its attachment have been prepared as a courtesy to the Association.

Regards,



Nancy I. Sidoruk, Esq.



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Terri Bruns

From: kurtis@tieivote.com
Sent: Tuesday, July 7, 2020 9:59 AM
To: Terri Bruns; Tina Platt
Subject: Write Ins

Hi Terri and Tina,

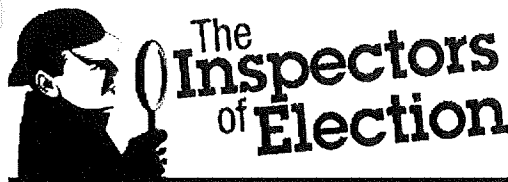
I think we need to put a write-in space on the ballot. Although the election rules do away with write-ins and nominations from the floor, the Bylaws allow for them and will trump the election rules just like the CC&Rs trump the Bylaws. Legal counsel may have missed this one in the creation of the election rules.

Article IV

Section 6 (d) (i): **Written Ballots Used for Voting in Director Elections.** Written ballots used in any election of directors shall set forth the names of the candidates whose names have been placed in nomination at the time the ballot is issued (see article VII, section 4). The ballot form shall also provide a space where the Member can designate a vote for another (write-in) candidate.

Let me know your thoughts.

Best Regards,
Kurtis Peterson, CMCA
858-329-0009



We make every vote count!

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Senate Bill No. 323

CHAPTER 848

An act to amend Sections 5100, 5105, 5110, 5115, 5125, 5145, and 5200 of, and to add Section 5910.1 to, the Civil Code, relating to common interest developments.

[Approved by Governor October 12, 2019. Filed with Secretary of State October 12, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 323, Wieckowski. Common interest developments: elections.

(1) The Davis-Stirling Common Interest Development Act governs the creation and management of common interest developments. The act requires a homeowner's association to adopt rules that, among other things, specify the qualifications for candidates for the board of directors of the association and any other elected position, qualifications for voting, the voting power of each membership, the authenticity, validity, and effect of proxies, and the voting period for elections, including the times at which polls will open and close, consistent with the governing documents. The act requires the sealed ballots to be at all times in the custody of the inspector or inspectors of elections or at a designated location until after the tabulation of the vote.

This bill would, among other things, require an association to provide general notice of the procedure and deadline for submitting a nomination as a candidate at least 30 days before any deadline for submitting a nomination. The bill would require an association to disqualify a person from nomination as a candidate for not being a member at the time of the nomination. The bill would authorize an association to disqualify a person from being nominated or from serving on the board for specified reasons, including the failure to pay regular and special assessments. The bill would require the rules to require retention of, as association elections materials, both a candidate registration list and a voter list, which would be required to be made available to members to verify the accuracy of their individual information, in accordance with specified timeframes. The bill would require these rules to prohibit the denial of a ballot to a member and to a person with general power of attorney for an owner. This bill would require the sealed ballots, signed voter envelopes, voter list, proxies, and candidate registration list to be in the custody of the inspector of elections or at a designated location until after vote tabulation and would, with certain exceptions, require these association election materials to be considered association records, as defined, subject to inspection.

(2) Existing law requires an independent third party to be selected by the association as the inspector of elections and prohibits a person, business entity, or subdivision of a business entity that is employed or under contract

documents, or the grant of exclusive use of common area pursuant to Section 4600 shall be held by secret ballot in accordance with the procedures set forth in this article.

(2) An association shall hold an election for a seat on the board of directors in accordance with the procedures set forth in this article at the expiration of the corresponding director's term and at least once every four years.

(b) This article also governs an election on any topic that is expressly identified in the operating rules as being governed by this article.

(c) The provisions of this article apply to both incorporated and unincorporated associations, notwithstanding any contrary provision of the governing documents.

(d) The procedures set forth in this article shall apply to votes cast directly by the membership, but do not apply to votes cast by delegates or other elected representatives.

(e) In the event of a conflict between this article and the provisions of the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code) relating to elections, the provisions of this article shall prevail.

(f) Directors shall not be required to be elected pursuant to this article if the governing documents provide that one member from each separate interest is a director.

SEC. 1.1. Section 5100 of the Civil Code is amended to read:

5100. (a) (1) 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, or the grant of exclusive use of common area pursuant to Section 4600 shall be held by secret ballot in accordance with the procedures set forth in this article.

(2) An association shall hold an election for a seat on the board of directors in accordance with the procedures set forth in this article at the expiration of the corresponding director's term and at least once every four years.

(b) This article also governs an election on any topic that is expressly identified in the operating rules as being governed by this article.

(c) The provisions of this article apply to both incorporated and unincorporated associations, notwithstanding any contrary provision of the governing documents.

(d) The procedures set forth in this article shall apply to votes cast directly by the membership, but do not apply to votes cast by delegates or other elected representatives.

(e) In the event of a conflict between this article and the provisions of the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code) relating to elections, the provisions of this article shall prevail.

(iii) 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.

(iv) If that person has been a member of the association for less than one year.

SEC. 2. Section 5105 of the Civil Code is amended to read:

5105. (a) An association shall adopt operating rules in accordance with the procedures prescribed by Article 5 (commencing with Section 4340) of Chapter 3, that do all of the following:

(1) Ensure that 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.

(2) Ensure access to the common area meeting space, if any exists, during a campaign, at no cost, to all candidates, including those who are not incumbents, and to all members advocating a point of view, including those not endorsed by the board, for purposes reasonably related to the election.

(3) Specify the qualifications for candidates for the board and any other elected position, subject to subdivision (b), and procedures for the nomination of candidates, consistent with the governing documents. A nomination or election procedure shall not be deemed reasonable if it disallows any member from nominating themselves for election to the board.

(4) Specify the voting power of each membership, the authenticity, validity, and effect of proxies, and the voting period for elections, including the times at which polls will open and close, consistent with the governing documents.

(5) Specify a method of selecting one or three independent third parties as inspector or inspectors of elections utilizing one of the following methods:

(A) Appointment of the inspector or inspectors by the board.

(B) Election of the inspector or inspectors by the members of the association.

(C) Any other method for selecting the inspector or inspectors.

(6) Allow the inspector or inspectors 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.

(7) Require retention of, as association election materials, both a candidate registration list and a voter list. 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

(e) An 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.

(f) Notwithstanding any other law, the rules adopted pursuant to this section may provide for the nomination of candidates from the floor of membership meetings or nomination by any other manner. Those rules may permit write-in candidates for ballots.

(g) Notwithstanding any other law, the rules adopted pursuant to this section shall do all of the following:

(1) Prohibit the denial of a ballot to a member for any reason other than not being a member at the time when ballots are distributed.

(2) Prohibit the denial of a ballot to a person with general power of attorney for a member.

(3) Require the ballot of a person with general power of attorney for a member to be counted if returned in a timely manner.

(4) Require the inspector or inspectors of elections to 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 the election operating rules. Delivery of the election operating 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.

(h) Election operating rules adopted pursuant to this section shall not be amended less than 90 days prior to an election.

SEC. 3. Section 5110 of the Civil Code is amended to read:

5110. (a) The association shall select an independent third party or parties as an inspector of elections. The number of inspectors of elections shall be one or three.

(b) For the purposes of this section, 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 or inspectors 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.

delivered by hand to a location specified by the inspector or inspectors of elections. The member may request a receipt for delivery.

(d) 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.

(e) 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.

(f) Except for the meeting to count the votes required in subdivision (a) of Section 5120, an election may be conducted entirely by mail unless otherwise specified in the governing documents.

(g) In an election to approve an amendment of the governing documents, the text of the proposed amendment shall be delivered to the members with the ballot.

SEC. 5. Section 5125 of the Civil Code is amended to read:

5125. The sealed ballots, signed voter envelopes, voter list, proxies, and candidate registration list shall at all times be in the custody of the inspector or inspectors of elections or at a location designated by the inspector or inspectors until after the tabulation of the vote, and until the time allowed by Section 5145 for challenging the election has expired, at which time custody shall be transferred to the association. If there is a recount or other challenge to the election process, the inspector or inspectors of elections shall, upon written request, make the ballots available for inspection and review by an association member or the member's authorized representative. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.

SEC. 6. Section 5145 of the Civil Code is amended to read:

5145. (a) A member of an association may bring a civil action for declaratory or equitable relief for a violation of this article by the association, including, but not limited to, injunctive relief, restitution, or a combination thereof, within one year of the date that the inspector or inspectors of elections notifies the board and membership of the election results or the cause of action accrues, whichever is later. If a member establishes, by a preponderance of the evidence, that the election procedures of this article, or the adoption of and adherence to rules provided by Article 5 (commencing with Section 4340) of Chapter 3, were not followed, a court shall void any results of the election unless the association establishes, by a preponderance of the evidence, that the association's noncompliance with this article or the election operating rules did not affect the results of the election. The findings of the court shall be stated in writing as part of the record.

(b) A member who prevails in a civil action to enforce the member's rights pursuant to this article shall be entitled to reasonable attorney's fees and court costs, and the court may impose a civil penalty of up to five hundred dollars (\$500) for each violation, except that each identical violation shall be subject to only one penalty if the violation affects each member of

of the association, statements for services rendered, and reimbursement requests submitted to the association.

(c) "Association election materials" means returned ballots, signed voter envelopes, the voter list of names, parcel numbers, and voters to whom ballots were to be sent, proxies, and the candidate registration list. Signed voter envelopes may be inspected but may not be copied.

SEC. 8. Section 5910.1 is added to the Civil Code, to read:

5910.1. An association may not file a civil action regarding a dispute in which the member has requested dispute resolution unless the association has complied with Section 5910 by engaging in good faith in the internal dispute resolution procedures after a member invokes those procedures.

SEC. 9. Section 1.1 of this bill incorporates amendments to Section 5100 of the Civil Code proposed by both this bill and Senate Bill 754. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 5100 of the Civil Code, and (3) this bill is enacted after Senate Bill 754, in which case Section 1 of this bill shall not become operative.