

**ELECTION RULES  
FOR  
SUGARLOAF HOMEOWNERS ASSOCIATION**

The following Election Rules are adopted pursuant to California Civil Code § 1363.03(a). To the extent that they are inconsistent with any of the provisions of the other Governing Documents of the Sugarloaf Homeowners Association, these Election Rules shall supercede those inconsistent provisions and apply. The definitions in the Declaration shall apply to these Election Rules, which rules are part of the Operating Rules of the Association.

**1. Equal Access to Association Media and Meeting Spaces**

1.01. If the Association provides access to Association media, newsletters, or internet web sites to any candidate for the Board during a campaign for purposes that are reasonably related to that election, the Association shall provided equal access to all candidates in that election, 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 shall include a statement specifying that the candidate, and not the Association, is solely responsible for the content of the communication.

1.02. If the Association provides access to Association media, newsletters, or internet web sites to any Member advocating a point of view on an issue to be voted upon by the membership for purposes that are reasonably related to that vote, the Association shall provide equal access to all Members advocating a point of view on the issue to be voted upon, including those Members who advocate a position not endorsed by the Board, for purposes that are reasonably related to the vote. The Association shall not edit or redact any content from these communications, but shall include a statement specifying that the Member, and not the Association, is solely responsible for that content of the communication.

1.03. If the Association provides a meeting space during a campaign to any candidate or Member as a forum to discuss issues reasonably related to the election of the matter(s) to be voted upon by the membership, the Association shall make such space available, 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 or vote.

**2. Qualifications for Candidates for the Board and Nominations**

2.01. In order for a person to be a candidates for the Board, that person shall be a Member in Good Standing of the Association who has agreed to serve on the Board for the entire term. If the Member in Good Standing is a corporation, partnership, trust or other entity, an agent, partner, trustee or other authorized representative of the entity Member shall be eligible to serve on the Board for the entire term.

2.02. Nomination for election to the Board shall be made by a nominating committee, which committee shall be appointed by the Board at least one hundred-twenty (120) calendar days prior to the annual meeting of the membership. The nominating committee shall consist of a chairman, who shall be a member of the Board, and two (2) or more Members. The nominating committee shall at least ninety (90) calendar days prior to the annual meeting solicit nominations to fill any vacancies on the Board by notifying the Members of the number of vacancies on the Board to be filled by written secret ballot following the up-coming annual meeting, the names of those Members who presently hold those seats on the Board, the qualifications for candidacy to be elected to the Board and the deadline by which the nominating committee must receive any nominations to be reported to the Board prior to the annual meeting, which deadline for reply shall not be less than thirty (30) calendar days from the date of the solicitation for nominations and notice to the Members. Any Member may nominate any qualified Member, including himself or herself, to be a candidate for the Board, which nomination must be in writing and signed by the Member making the nomination and the nominee(s). The nominating committee shall thereafter confirm that any Member nominated is willing to serve and shall make its report to the Board of the nominations of all willing and qualified candidates received at least forty-five (45) calendar days before the date of the annual meeting. The Secretary shall forward to each Member, with the notice of annual meeting, a listing of the candidates nominated. Nominations may also be made from the floor at the annual meeting of the membership prior to the close of the nominations, and any Member may nominate himself or herself from the floor provided that such Member is a Member in Good Standing.

### **3. Membership Voting Qualifications and Voting Power**

3.01. Persons entitled to vote at any meeting of the Members or by written secret ballot requiring the use of double envelopes shall be regular Members in Good Standing as of the Record Date for the vote as defined in the Governing Documents, or their proxyholders.

3.02. There is one class of voting membership. Members shall be entitled to one (1) vote for each Lot owned in the Development. When more than one person holds an ownership interest in any Lot, all such persons shall be Members, but no more than one (1) vote shall be cast with respect to any Lot.

3.03. If more than one (1) person owns a Lot, all of these persons shall be deemed to be one (1) Member for voting purposes, although all such Owners shall have equal rights as Members to use and enjoy the Common Areas of the Development. The Secretary shall be notified in writing at least fifteen (15) calendar days prior to the vote of the Owner designated by his or her co-owners as having the sole right to vote the membership on their behalf. If no such notification is received, the Secretary or Inspector(s) of Election may accept the vote, ballot or proxy of any Owner of a Lot as the vote, ballot or proxy attributable to the Lot in question, provided, however, that, if the multiple Owners of a Lot attempt to vote by voice or written ballot the membership attributable to said Lot in an inconsistent fashion or submit inconsistent proxies attributable to a Lot, the Secretary or Inspector(s) of Election may refuse to count any vote,

ballot or proxy pertaining to that Lot. When a Lot is owned by a corporation, partnership, or other business entity, one individual officially designated in writing by the business entity and delivered in writing to the Secretary at least fifteen (15) calendar days prior to the vote may function as any other individual Member, including voting on behalf of said business entity and holding office in the Association. If one (1) Owner casts the vote or ballot attributed to a Lot, the vote shall conclusively bind all of the Owners of that Lot.

3.04. If the name signed on a written ballot, consent, waiver or proxy appointment corresponds to the name of a Member, the Association or the Inspector(s) of Election shall be entitled to accept the ballot, consent, waiver or proxy statement and give it effect as the act of the Member.

3.05. If the name signed on a ballot, consent, waiver or proxy appointment does not correspond to the record name of a Member, the Association and the Inspector(s) of Election shall nevertheless accept the ballot, consent, waiver or proxy statement and give it effect as the act of the Member if any of the following occur:

(a) The Member is an entity and the name signed purports to be that of an officer or agent of the entity.

(b) The name signed purports to be that of an attorney-in-fact of the Member and, if the Association or the Inspector(s) of Election requests, evidence acceptable to the Association or the Inspector(s) of Election of the signatory's authority to sign for the Member have been presented with respect to the ballot, consent, waiver or proxy appointment.

(c) Two or more persons hold the membership as cotenants or fiduciaries and the name signed purports to be the name of at least one of the coholders and the person signing appears to be acting on behalf of all of the coholders.

(d) The name signed purports to be that of an administrator, executor, guardian, or conservator representing the Member and, if the Association or the Inspector(s) of Election requests, evidence of fiduciary status acceptable to the Association or the Inspector(s) of Election have been presented with respect to the ballot, consent, waiver or proxy appointment.

(e) The name signed purports to be that of a receiver or trustee in bankruptcy of the Member, and, if the Association or the Inspector(s) of Election requests, evidence of this status acceptable to the Association or the Inspector(s) of Election have been presented with respect to the ballot, consent, waiver or proxy appointment.

3.06. The Association or the Inspector(s) of Election shall reject a ballot, consent, waiver or proxy appointment if the Secretary, Inspector(s) of Election, or other officer or agent

authorized to tabulate votes, acting in good faith, has a reasonable basis for doubt concerning the validity of the signature or the signatory's authority to sign for the Member.

3.07. Except as otherwise provided in the Governing Documents, the right to vote may not be severed or separated from the ownership of the Lot to which it is appurtenant, except that any Member may give a revocable proxy to any person or may assign his or her right to vote a contract of sale vendee, lessee or a Mortgagee of the Lot concerned for the term of the contract of sale, lease or mortgage, and any sale, transfer or conveyance of such Lot to a new Owner or Owners shall operate automatically to transfer the appurtenant vote to the new Owner, subject to any assignment of the right to vote to a contract vendee, lessee or Mortgagee, as provided in the Governing Documents.

#### **4. Proxies**

4.01. A proxy is a written authorization signed by a Member or a Member's attorney in fact giving another person power to vote on behalf of such Member. At all meetings of Members and in all votes pursuant to a written secret ballot requiring the use of double envelopes, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary or other person designated at the meeting of the membership, or prior to the Record Date of a vote by written secret ballot. A proxy issued by a Member shall be revocable by the Member executing such proxy (i) at any time prior to the Record Date of a vote by delivery to the Secretary of a written notice of revocation executed by the Member, (ii) a subsequent proxy executed by the Member executing the prior proxy and presented to the meeting or to the Secretary prior to the Record Date of a vote by written secret ballot requiring the use of double envelopes, (iii) as to any vote at a meeting of the membership, by attendance at such meeting and voting in person by the Member executing the proxy, or (iv) as to any vote by a written ballot requiring the use of double envelopes, by delivering by mail or in person to the Inspector(s) of Election a properly prepared secret written ballot prior to the close of the Voting Period for that election or vote. The dates contained on the proxy form shall presumptively determine the order of execution. A proxy shall be deemed revoked upon the death or judicially declared incompetence of the Member issuing the proxy, and shall automatically cease upon conveyance by the Member of his or her Lot. Any proxy shall be invalid after expiration of eleven (11) months from the date it is executed, unless otherwise provided in the proxy; provided, however, no proxy shall be valid for more than three (3) years from the date of its execution.

4.02. Any form of proxy distributed to ten (10) or more Members must afford an opportunity on the proxy to specify a choice between approval or disapproval of any matter or group of related matters intended, at the time the proxy is distributed, to be acted upon at the meeting or by written secret ballot requiring the use of double envelopes for which the proxy is solicited. If the form of proxy lists one or more matters to be acted upon and the issuer of the proxy has specified a choice with respect to any such matter, the proxy holder shall be obligated to cast the vote represented by the proxy in accordance with the issuer's designated preference.

4.03. In any election of directors, any form of proxy or written secret ballot in which the directors to be voted upon are named therein as candidates and which is marked by a Member “withhold” or otherwise marked in a manner indicating that the authority to vote for the election of directors is withheld shall not be voted either for or against the election of a director, but may be counted for quorum purposes. If a proxy issued in connection with the election of directors is marked so as to direct the proxyholder to vote the proxy for a specified candidate or candidates, the proxyholder shall vote in accordance with the direction of the proxy issuer.

4.04. Any instruction given in a proxy issued for an election or vote that directs the manner in which the proxyholder is to cast the vote shall be set forth on a separate page of the proxy that can be detached and given to the proxy holder to retain.

## **5. Voting Periods**

5.01. Voting Periods for elections or votes conducted pursuant to a secret written ballot requiring the use of double envelopes shall be at least thirty-five (35) calendar days from the date that the ballots are mailed to the Members. If, at the close of any balloting period, the Inspector(s) of Election determine that the number of ballots received does not constitute a necessary quorum of the membership, the Inspector(s) of Election shall cause a notice to be mailed to all Members informing them that a quorum has not been received and that the Voting Period has been extended for an additional fifteen (15) calendar days. Any due date for ballots shall not be a Saturday, Sunday or national holiday. All ballots must be received by 5:00 p.m. on the day last designated as the date for the closing of the Voting Period or extended Voting Period.

5.02. Voting Periods for votes conducted wherein a secret written ballot does not require the use of double envelopes shall be established by the Board at or prior to the time when the vote is taken.

## **6. Secret Written Ballots Requiring the Use of Double Envelopes**

6.01. Votes by the Members regarding assessments legally requiring a vote of the membership, the election and removal of members of the Board, amendments to the Governing Documents, or the grant of exclusive use of Common Area property shall be held by secret ballot using the use of the double envelope method as prescribed by law.

6.02. When a secret written ballot is required by law, a secret written ballot and two pre-addressed envelopes with instructions on how to return ballots shall be mailed by first-class mail or delivered by the Association to every Member and to every verified proxy holder not less than thirty-five (35) calendar days prior to the deadline for voting. In order to preserve confidentiality, a voter may not be identified by name, address, or Lot or parcel number on the ballot. The Association shall use procedures to ensure confidentiality of voter ballots, including all of the following:

(a) The ballot itself is not to be signed by the voter, but is to be inserted into an envelope that is sealed. This envelope is then to be inserted into a second envelope that is sealed. In the upper left hand corner of the second envelope, the voter shall sign his or her name, print his or her name, print his or her address, and print the address of the Lot that entitles him or her to vote. If the voter is voting as a proxy holder for Member, the voter shall also indicate that fact on the second envelope.

(b) The second envelope shall be addressed to the Inspector(s) of Election, who will be tallying the votes. The envelope shall then to be mailed or delivered by hand to a location specified by the Inspector(s) of Election. The Member may request a receipt for delivery.

6.03. All other votes of the Members may be conducted by secret written ballot using the double envelope method in the sole discretion of the Board.

## **7. Inspector(s) of Elections**

7.01. The Board shall, in their sole discretion, select one or three independent third parties as Inspector(s) of Election.

7.02. The Inspector(s) of Election shall have the authority to appoint and oversee additional persons to verify signatures and to count and tabulate votes as the Inspector(s) of Election deem appropriate, provided that the persons are independent third parties.

7.03. 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 member of the Board or a candidate for the Board or related to a member of the Board or a candidate for the Board. An independent third party may 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.

7.04. The Inspector(s) of Election shall do all of the following:

(a) Determine the number of memberships entitled to vote and the voting power of each.

(b) Determine the authenticity, validity, and effect of proxies, if any.

(c) Receive ballots.

(d) Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.

(e) Count and tabulate all votes. When secret written ballots are received from both the Member and the proxy holder for the Member during the balloting period, the Member's ballot shall be counted and included in the tabulation and the proxy holder's ballot for that Member shall not be opened or counted in the vote.

(f) Determine when the polls shall close, consistent with the Governing Documents.

(g) Determine the tabulated results of the election or vote.

(h) Perform any acts as may be proper to conduct the election with fairness to all Members in accordance with the law, and all applicable rules of the Association regarding the conduct of the election that are not in conflict with the law.

7.05. An Inspector of Election shall perform his or her duties impartially, in good faith, to the best of his or her ability, and as expeditiously as is practical. If there are three Inspectors of Election, the decision or act of a majority shall be effective in all respects as the decision or act of all. Any report made by the Inspector(s) of Election is prima facie evidence of the facts stated in the report.

## **8. The Counting and Tabulating of Votes**

8.01. All votes shall be counted and tabulated by the Inspector(s) of Election or his or her designee in public at a properly noticed open meeting of the Board. Any candidate or other Member may witness the counting and tabulation of the votes. No person, including a Member 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; provided, however, the Inspector(s) of Election, or his or her designee, may verify the Member's information and signature on the outer envelope prior to the meeting at which ballots are tabulated and make a determination as to whether a required quorum has been achieved. Once a secret ballot is received by the Inspector(s) of Elections, it shall be irrevocable.

8.02. The tabulated results of the election or vote shall be promptly reported to the Board, shall be recorded in the minutes of the meeting of the Board on which the tabulation was conducted, and shall be available for review by Members. Within fifteen (15) calendar days of the election, the Board shall publicize the tabulated results of the election in a communication directed to all Members.

8.03. The sealed ballots at all times shall be in the custody of the Inspector(s) of Election or at a location designated by the Inspector(s) of Election until after the tabulation of the vote, and until the time allowed by § 7527 of the California Corporations Code 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 a Member or his or her authorized representative. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.

8.04. After the transfer of the ballots to the Association, the ballots shall be stored by the Association in a secure place for no less than one (1) year after the date of the election.

## **9. Use of Funds for Campaign Purposes**

9.01. Association funds shall not be used for Campaign Purposes in connection with any election of a Member to the Board. Funds of the Association shall not be used for campaign purposes in connection with any other Association vote except to the extent necessary to comply with duties of the Association imposed by law. As used herein, the term “Campaign Purposes” include, but are not limited to, the following:

(a) Expressly advocating the election or defeat or any candidate that is on the Association election ballot for the Board.

(b) Including the photograph or prominently featuring the name of any candidate for the Board on a communication from the Association or the Board, excepting the ballot and ballot materials, within thirty (30) calendar days of an election, provided that this is not a Campaign Purpose if the communication is one for which these Rules of Election require that equal access be provided to another candidate or advocate.