

## **ELECTION RULES FOR THE PONDEROSA HOMEOWNERS ASSOCIATION**

**The Association hereby adopts these rules (“Election Rules”) in accordance with California Civil Code section 1363.03.**

**(a) Election Rules:** These Election Rules shall, and are hereby, adopted in accordance with the procedures prescribed by Article 4 (commencing with Section 1357.100) of Chapter 2 that accomplish all of the following:

(1) For any election being conducted by the Association, to ensure that if any candidate or member advocating a point of view is provided access to association media, newsletters, or Internet Web sites 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) For any election being conducted by the Association, equal access to the common area meeting space, if any exists, shall be provided 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) For any election being conducted by the Association, the qualifications for candidates for the board of directors shall be that any candidate for the Board shall be a Member of the Association, or an officer, director, employee or agent of a Member, including Declarant, as set forth in **Section 4.2** of the Bylaws. The procedures for the nomination of candidates shall be that nomination for election to the Board of Directors shall be made by a Nominating Committee established by the sitting Board of Directors in accordance with **Section 5.1** of the Bylaws. Notice to the Members of the meeting for the election shall include the names of all those who are nominees at the time the notice is sent. Any member of the association may nominate himself or herself for election to the board of directors.

(4) The qualifications for voting shall be as set forth in **Section 3.7** of the Bylaws, including:

Voting rights attributable to Lots shall not vest until Assessments against those Lots have been levied by the Association. Only Members in good standing shall be entitled to vote on any issue or matter presented to the Members for approval. In order to be in good standing, a Member must be current in the payment of all Assessments levied against the Member's Lot and not subject to any suspension of voting privileges as a result of any disciplinary proceeding conducted in accordance with the Declaration. A Member's good standing shall be determined as of the record date established in accordance with Section 3.8 of the Bylaws. The Association shall not be obligated to conduct a hearing in order to suspend a Member's voting privileges on the basis of the nonpayment of Assessments, although a delinquent Member shall be entitled to request such a hearing. A Member shall maintain good standing if said standing has not been suspended by the provisions of these Bylaws and the Member has maintained a current filing with the Association of the following: (i) the signature or signatures of the Owner(s) authorized to vote on behalf of the Member's Lot; and (ii) address where all notices shall be sent; or, alternatively, (iii) a proxy that names the Owner's representative and lists said representative's address.

The voting power of each membership shall be as set forth in **Section 3.6** of the Bylaws, including the following: The Association shall have two (2) classes of voting membership:

**Class A:** Class A Members shall be all Owners with the exception of the Declarant (as defined in the Declaration) and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

**Class B:** The Class B Member shall be the Declarant, whose voting rights shall be the same as for Class A memberships, except that the Class B Member may triple its votes for each Lot owned. The Class B membership shall cease and be converted to Class A memberships upon the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership equal the total votes (tripled as stated above) outstanding in the Class B membership; or

(b) on the second anniversary of the first conveyance of a Lot in the Project.

Proxies, if permitted for the election, shall be submitted to the Association's Management Company in accordance with **Section 3.5** of the Bylaws. Authenticity, validity and effect of proxies shall be determined by the Election Inspector[s] pursuant to the Bylaws and these Election Rules.

Ballots for elections requiring secret ballots shall be distributed and tabulated in accordance with these Election Rules pursuant to section (b) and section (e), below. Authenticity, validity and effect of ballots shall be determined by the Election Inspector[s] pursuant to the Bylaws and these Election Rules.

The voting period for elections shall be set forth in the notice of election for the election, and shall include a written statement as to the times at which polls will open and close.

(5) The Board of the Association shall select one independent third party as the inspector of elections in accordance with California Civil Code section 1363.03(c), and as set forth in section (c) of these Election Rules.

**(b) Secret Ballot Requirements:** In accordance with California Civil Code section 1363.03 (b), notwithstanding any other law or provision of the governing documents, an election within the Project regarding assessments, selection of members of the association board of directors, amendments to the governing documents, or the grant of exclusive use of common area property pursuant to Section 1363.07 shall be held by secret ballot in accordance with the procedures set forth in California Civil Code section 1363.03.

**(c) Inspector of Elections.** In accordance with California Civil Code section 1363.03(c):

(1) The Association shall select one independent third party as an inspector of election.

(2) 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 of the Association, but may not be a member of the board of directors or a candidate for the board of directors or related to a member of the board of directors or a candidate for the board of directors. An independent third party may not be a person who is currently employed or under contract to the Association for any compensable services unless expressly authorized by the Rules of the Association adopted pursuant to paragraph (5) of subdivision (a).

(3) The inspector 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.
- (F) Determine when the polls shall close.
- (G) Determine the result of the election.
- (H) Perform any acts as may be proper to conduct the election with fairness to all members in accordance with this section and all applicable rules of the association regarding the conduct of the election that are not in conflict with this section.

(4) An inspector of election shall perform his or her duties impartially, in good faith, to the best of his or her ability, and as expeditiously as is practical. 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 or inspectors of election is prima facie evidence of the facts stated in the report.

**(d) Proxy Instructions:** Any instruction given in a proxy issued for an election where a proxy is permitted that directs the manner in which the proxy holder 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. The proxy holder shall cast the member's vote by secret ballot.

**(e) Secret Ballots:** Ballots and two preaddressed envelopes with instructions on how to return ballots shall be mailed by first-class mail or delivered by the association to every member not less than 30 days prior to the deadline for voting. In order to preserve confidentiality, a voter may not be identified by name, address, or Lot number on the ballot. The Association shall use as a model those procedures used by California counties for ensuring confidentiality of voter absentee ballots, including all of the following:

(1) The ballot itself is not signed by the voter, but is inserted into an envelope that is sealed. This envelope is inserted into a second envelope that is sealed. In the upper left hand corner of the second envelope, the voter prints and signs his or her name, address, and Lot number that entitles him or her to vote.

(2) The second envelope is addressed to the inspector or inspectors of election, who will be tallying the votes. The envelope may be mailed or delivered by hand to a location specified by the inspector or inspectors of election. The member may request a receipt for delivery.

**(f) Tabulation of Votes:** All votes shall be counted and tabulated by the inspector or inspectors of election in public at a properly noticed open meeting of the board of directors or members. Any candidate or other member of the association may witness the counting and tabulation of the votes. No person, including a member of the association or an employee of the management company, shall open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated. Notwithstanding the foregoing: if there are three seats available and only three candidates nominated to fill those seats – then those candidates shall be considered as being elected as the directors by acclamation and it shall not be necessary to count ballots.

**(g) Results of Elections:** The results of the election shall be promptly reported to the board of directors of the association and shall be recorded in the minutes of the next meeting of the board of directors and shall be available for review by members of the association. Within 15 days of the election, the board shall publicize the results of the election in a communication directed to all members.

**(h) Custody of Ballots:** The sealed ballots at all times shall be in the custody of the inspector or inspectors of election or at a location designated by the inspector or inspectors until after the tabulation of the vote, at which time custody shall be transferred to the association.

**(i) Storage and Inspection of Ballots:** After tabulation, election ballots shall be stored by the association in a secure place for no less than one year after the date of the election. In the event of a recount or other challenge to the election process, the association shall, upon written request, make the ballots available for inspection and review by association members or their authorized representatives. Any recount shall be conducted in a manner that shall preserve the confidentiality of the vote.

**(j) Association funds for campaigns:**

In accordance with California Civil Code section 1363.04:

(1) Association funds shall not be used for campaign purposes in connection with any association board election. Funds of the association shall not be used for campaign purposes in connection with any other association election except to the extent necessary to comply with duties of the association imposed by law.

(2) For the purposes of this section "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.

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

These Election Rules were adopted by the Ponderosa Homeowners Association Board of Directors on \_\_\_\_\_, 2007.