

# BEVERLYWOOD HOMES ASSOCIATION

## ELECTION RULES (Effective May 18, 2020)

In accordance with the newly adopted amendments to the California Davis-Stirling Act, the following rules and procedures shall apply where use of secret ballots are required:

### ELECTION REQUIREMENTS

#### Posting / Notice.

At least thirty (30) days before the ballots are mailed to the Members, the Association must provide a Notice in accordance with the requirements of Civil Code §5115(b) which includes:

- The list of candidates;
- The deadline for returning ballots; and
- The time and place of the annual meeting.

#### 1. Nomination of Candidates.

- 1.1 At least thirty (30) days prior to the close of the nomination period, the Association shall provide to each Owner by general notice: a copy of the Election Rules, a Candidate Nomination Form, and the deadline date for returning Nomination Forms.
- 1.2 Candidates and Directors must be Members of the Association, or a person who is authorized to run/serve on behalf of an entity owned Unit. Unless authorized by law, the only other qualifications for nomination are:
  - 1.2.1 A candidate must have owned a Lot within the Association for at least one (1) year from the date that nominations may be submitted;
  - 1.2.2 No candidate, if elected, may serve on the Board with a Co-Owner of a Lot;
  - 1.2.3 No candidate may run for or serve on the Board if he or she has been convicted of a felony that would either prevent the Association from purchasing fidelity bond coverage or terminate the Association's existing fidelity bond coverage; and
  - 1.2.4 Such Candidate is not delinquent in the payment of assessments.
- 1.3 Owners may nominate themselves or another Member.

- 1.4 Any candidate nominated by another person will be contacted to confirm that such candidate consents to having his or her name placed in nomination for election to the Board of Directors.
- 1.5 All candidates who meet the qualifications to serve on the Board and, if appropriate, have confirmed his/her willingness to run for election to the Board, shall be listed on the Secret Ballot.
- 1.6 The Candidate Nomination Form must be returned to the Association at the address provided and by the deadline stated on such form. Any candidate statements which are provided to the Association for distribution must contain two hundred fifty (250) words or less.
- 1.7 The Board shall be comprised of Eleven (11) persons, all of whom must be Members of the Association except as noted in 1.2, above. The term of office of each Director shall be two (2) years.

**2. Inspectors of Election.**

- 2.1 The Board shall appoint either one (1) or three (3) independent third parties as Inspectors of Election after the close of candidate nominations but before the Secret Ballots are mailed to the Owners. An Inspector shall not be anyone under contract with the Association. An independent third party shall be either
  - 2.1.1 A volunteer poll worker with the county registrar of voters;
  - 2.1.2 A licensee of the California Board of Accountancy;
  - 2.1.3 A notary public; or
  - 2.1.4 A Member of the Association provided such Member is not a Member of the Board of Directors, a candidate for the Board of Directors, related to a Member of the Board of Directors or related to a candidate for the Board of Directors.
- 2.2 Prior to the secret ballots being mailed to the Owners, the Inspector(s) of Election shall meet to determine to whom the ballots shall be returned (the Interim Inspector), which person(s) may include the Association's community manager.
- 2.3 The Inspector(s) of Election shall also do all of the following:
  - 2.3.1 Determine the number of memberships entitled to vote and the voting power of each. No Member's right to vote may be suspended by the Association;
  - 2.3.2 Receive ballots;

- 2.3.3 Hear and determine all challenges and questions in any way arising out of the validity of a ballot;
  - 2.3.4 Count and tabulate all votes;
  - 2.3.5 Determine when the polls shall close;
  - 2.3.6 Determine the result of the election; and
  - 2.3.7 Perform any acts as may be proper to conduct the election with fairness to all Members.
- 2.4 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. The decision or act of a majority shall be effective in all respects as the decision or act of all.
  - 2.5 Any report made by the Inspector or Inspector(s) of Election is prima facie evidence of the facts stated in the report.
  - 2.6 The Board may remove and replace any Inspector of Election prior to the tabulation of ballots if an Inspector of Election resigns or if the Board reasonably determines that an Inspector of Election will not be able to perform his or her duties impartially and in good faith.
  - 2.7 The Inspector(s) of Election may appoint or oversee additional persons to collect ballots, to verify signatures, to count and tabulate votes as the Inspector(s) deems appropriate, provided that such person(s) are independent third parties.

### **3. Secret Ballot Procedure.**

- 3.1 Ballots and a pre-addressed envelope with instructions describing how to return the ballot shall be mailed by first-class mail or delivered by the Association to every Member not less than thirty (30) days prior to the deadline for voting and at least thirty (30) days after the Civil Code §5115(b) Notice has been provided to the Members.
- 3.2 *Ballots must ensure the confidentiality of the voters.*
  - 3.2.1 A voter may not be identified by name, address, Lot or parcel number on the ballot;
  - 3.2.2 The ballot 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 also sealed. In the upper left hand corner of the second (larger) envelope, the voter prints (or may use a mailing label) and signs his or her name, and specifies the Beverlywood property address that entitles him or her to vote. The second envelope is addressed to the Inspector(s) of Election, who will tally the votes.

- 3.3 *Returning Ballots.* Owners may return their secret ballot by mail or hand deliver it to a location specified by the Inspector(s) of Election. Only the ballots that are returned in accordance with the instructions of the Inspector(s) of Election shall be counted. Once a ballot is returned, it is deemed to be irrevocable. A Member may request a receipt for delivery of his or her ballot.
- 3.4 *Record Date.* The record date for purposes of voting shall be the date the ballots are mailed to all of the Owners. [The record date can be set by the Board and may preclude new Owners from voting.]
- 3.5 *Lost Ballots.* An Owner shall be provided with a replacement ballot upon request if his or her ballot is lost unless a ballot has already been received on behalf of the same Lot.
- 3.6 *Proxies.*
- 3.6.1 The Association can send out proxy forms. The completed proxy form must be exchanged for a ballot. The proxy form is not used to vote, only a ballot is used to vote.
- 3.6.2 The Inspector of Election shall determine if a proxy satisfies the requirements of the governing documents and California law. Only original signed proxy forms shall be accepted.
- 3.6.3 If a Member attends the meeting and registers to vote with the intent to revoke any proxy previously submitted by that Member, a proxy may only be revoked if it has not yet been exchanged for a ballot and voted by the proxyholder. So long as a ballot has not been cast for that lot, the member can vote their ballot. The Member's proxies shall be so marked to indicate their revoked status and maintained in the Association's records.
- 3.6.4 If a Member attends the meeting but wishes to allow a previously submitted proxy to stand, the Member shall sign the registration sheet, but shall not be issued a new ballot.
- 3.6.5 Each Lot shall be entitled to one (1) ballot.

#### **4. Campaigning.**

- 4.1 All candidates or Members advocating a point of view during a campaign, including those not endorsed by the Board, shall be provided equal access to Association media, newsletters, or Internet Web sites (if any) 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 the content.
- 4.2 All candidates, including those who are not incumbents, and all Members advocating a point of view, including those not endorsed by the Board, for

purposes reasonably related to the election, shall be provided equal access to any common area meeting space, if any exists, during a campaign at no cost.

- 4.3 Association funds may not be used for campaign purposes in connection with any board election. The term campaign purposes is defined to include, without limitation, (1) expressly advocating the election or defeat of any candidate that is on the ballot; or (2) including the photograph or prominently featuring the name of a candidate on a communication from the Association.

**5. Handling of Ballots.**

- 5.1 Owners may cast one (1) vote for each open position. Cumulative voting is prohibited.
- 5.2 As secret ballots are returned to the Interim Inspector, he/she shall check off on a sign-in sheet that a ballot has been received for such Lot. The first secret ballot received for any Lot shall be the only ballot which is counted. Any subsequent ballots for the same Lot which are received shall be deemed invalid.
- 5.3 The sealed ballots shall, at all times, be in the custody of the Inspector(s) of Election or at a location designated by the Inspectors until delivered to the Inspectors at the meeting for the opening of the ballots and the tabulation of the vote.
- 5.4 No person, including a Member of the Association or an employee of the management company, shall open the outer or inner envelope or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated.
- 5.5 After tabulation, election ballots and all other Association Election Materials shall be stored by the Inspectors of Elections in a secure place for no less than one (1) year after the date of the election. In the event of a recount or other challenge to the election process, the Inspectors of Election shall, upon written request, make the ballots available for inspection and review by Members or their authorized representatives. Any recount shall be conducted in a manner that shall preserve the confidentiality of the vote.

**6. Meeting at Which Secret Ballots Shall Be Tabulated.**

- 6.1 Except for the meeting to count the votes, an election may be conducted entirely by mail unless otherwise specified in the governing documents. The Inspector(s) of Election shall count and tabulate the ballots for the election in public at a properly noticed open meeting of the Members or, at a special meeting of the Board of Directors, duly noticed for the same date, time and place as the Members meeting called for the purpose of counting ballots. The Board of Directors shall determine the date, time and place of the Members' meeting and the concurrent special meeting of the Board in accordance with the Association's Bylaws.

- 6.2 Directors shall be elected by a plurality vote of the ballots received.
- 6.3 Secret Ballots received by the Inspector(s) of Elections shall be treated as Members present for purposes of a quorum. In the event there is not present in person or by proxy ten percent (10%) of the Members of the Association at any election meeting, election of duties shall not be completed until a mail ballot has been sent to all Members of the Association and two (2) weeks allowed for the return of said ballot.

**7. Tabulation of Votes.**

- 7.1 All votes shall be counted and tabulated by the Inspector(s) of Election and/or his/her appointed assistants, in public at a properly noticed open meeting of the Members or of the Board.
- 7.2 The Inspectors of Election shall confirm that no more than one Ballot is returned for each Lot.
- 7.3 Any candidate or other Member of the Association may witness the counting and tabulation of the votes. No observer to the Inspectors' counting may interfere with such process or come within ten (10) feet of any person counting. The Inspector(s) may cause the removal of any person who interferes or disrupts the counting or tabulation process.
- 7.4 Unmarked ballots shall count toward quorum only.
- 7.5 No ballots shall be accepted after the polls are closed.

**8. Announcement of Results.**

- 8.1 The results of the election shall be promptly reported to the Board of Directors 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.
- 8.2 Upon certification of the election results by the Inspector(s) of Election, the newly elected Board Members shall be deemed to have taken office.
- 8.3 Within fifteen (15) days of the election, the Board shall provide notice of the results of the election.

**9. Other Voting/Campaign Issues.**

- 9.1 All Members are entitled to vote. Only one ballot may be cast for each Lot.
- 9.2 Voting rights may not be suspended.

- 9.3 The number of Directors who are selected to be elected and their respective terms shall be determined in accordance with the Association's governing documents and stated in the notice of election meeting.
- 9.4 A ballot shall not be denied to a person with a general power of attorney for a member.

**10. Revision of Election Rules.**

The Election Rules may not be adopted or amended less than ninety (90) days prior to an election.

**11. Recount and Challenge to Election.**

11.1 *Inspection of Election Materials.*

Members may inspect the following election materials:

- Voter List;
- Ballots;
- Signed Voter Envelopes; and
- Proxies.

- 11.2 A recount may be requested by any Member, in writing, within five (5) days after the election results are announced and if the Member advances the cost of the recount. Such costs are subject to reimbursement if the outcome of the election is changed due to the recount.
- 11.3 Any Director or any person who had the right to vote in the election may challenge the election within one (1) year of the date of the election.
- 11.4 An action to challenge an election may be brought in the Superior Court or Small Claims Court where the Court may order injunctive relief and may levy penalties of up to five hundred dollars (\$500.00) per violation.

**CERTIFICATE OF SECRETARY**

The herein Election Rules and Voting Procedures were adopted on May 18, 2020, by a vote of the Board of Directors.

Dated: 7/2, 2021

By *Richard May*  
(Signature)  
RICHARD MAY  
(Print)

Title: Secretary