

## **ELECTION RULES WHITEHAWK RANCH HOMEOWNERS' ASSOCIATION**

The following election rules are adopted to comply with the requirements of the Davis-Stirling Act and to provide for fair elections, subject to all applicable and enforceable: (a) provisions of law, and (b) Articles of Incorporation, CC&Rs, and Bylaws.

### **I. MEMBERSHIP MEETINGS**

#### **A. Meetings of the Membership.**

1. **Annual Meetings.** There shall be an annual meeting each year for the purpose of electing directors and conducting any other business of the Association. The Board shall fix the date and hour for holding such meetings.

2. **Special Meetings.** Special meetings may be called by any of the following: (i) President of the Board, (ii) majority of the Board, or (iii) members in good standing 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 shall be submitted to the Board in writing, specifying the nature of the business to be transacted. The director or officer receiving the request shall promptly deliver the request to the remaining directors.

3. **Location of Meetings.** Annual and special meetings of the membership shall be held at a suitable location in or reasonably close to the Association. If the date, time and/or location is unreasonable, the Board shall set a date, time and/or location which is reasonable and relatively close to the original date, time and location requested by the parties calling the meeting.

#### **B. Notice of Membership Meetings.**

1. **Notice by Board.** Notice of all meetings of the members shall be given by the Board. If the Board fails to give notice, the persons calling the special meeting may give notice consistent with the governing documents and applicable law.

2. **Notice Period.** All notices shall be sent not less than ten (10) days or more than ninety (90) days before the date of the meeting.

3. **Notice Contents.** The notice shall 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.

4. **Delivery.** Notice of any membership meeting shall be given either personally or by first-class mail, charges prepaid, and addressed to each member: (i) at the address appearing on the books of the Association, (ii) at the address given by the member for the purpose of notice, or (iii) at the address of the member's unit, if no address appears on the

Association's books and no other address has been given. Notice shall be deemed to have been given at the time when delivered personally or deposited in the mail.

## II. NOMINATIONS

- A. Number of Directors. The Board shall consist of five (5) directors.
- B. Term of Office. The term of office served by directors shall be two-year staggered terms and until their successors are elected and qualified, with one (3) directors elected on odd-numbered years and two (2) directors elected on even-numbered years. There shall be no limitation on the number of terms served.
- C. Qualifications. No person may be a candidate for the Board, or once elected shall automatically cease to be a director, if that person: (i) is not at least twenty-one years of age, (ii) is not a member of the Association who is on title with at least a 10% ownership interest to a unit/lot in the Development, (iii) is not current (more than sixty (60) days delinquent) in the payment of any assessment, (iv) is engaged as an opponent in litigation, arbitration, or mediation with the Association, (v) is in a joint ownership interest in a unit with another director or resides in the same unit with another director, or (vi) is not a full or part-time resident at the Whitehawk Ranch property. In the event a corporation or other impersonal entity is a member of the Association, it may designate one person to stand for election to the Board on its behalf.
- D. Nominations. Nominations for election to the Board of Directors may be made by any of the following methods:
1. **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 shall set a cut-off date for the receipt of self-nomination statements, which date shall be publicized in advance to the members.
  2. **Nominating Committee.** As provided for in the Bylaws, a nominating committee may be appointed each year by the Board to solicit candidates to run for the Board and notify them of (i) the date for the close of candidate applications, (ii) the date for election of directors, either at an annual meeting or by ballot without a meeting, (iii) and the qualifications to serve on the Board. Per Civil Code section 5105(a)(3), the nominating committee may not preclude qualified Members from nominating themselves.
  3. **No Write-Ins.** Once nominations have been closed, no write-ins are allowed on ballots and no floor nominations can be made at the Annual Meeting.
- E. Uncontested Elections. If the number of nominations received is less than the number of seats open on the Board, then ballots do not need to be mailed to the membership unless balloting were to determine who received a longer term in office.

Even if seats are uncontested, the Annual Meeting will still be held at which candidates running for uncontested seats will be declared the winners.

### III. CAMPAIGNING

#### A. Access to Media.

1. **No Use of Association Resources.** The Association's newsletter, website, bulletin board, or other Association media may not be used for campaign purposes.

2. **Exception.** If any candidate or member is provided access to Association newsletters, website, bulletin board or other Association media during an election, for purposes that are reasonably related to that election, equal access shall be provided to all candidates and members. The access shall be limited to information relating to that election, and shall include those candidates and members not endorsed by the Board. 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. The Association and its directors, officers, and agents, shall be immune from liability for the content of those communications to the fullest extent provided by law.

#### B. Use of Common Area during Election Campaign.

1. **No Cost for Use.** During an election campaign, each candidate and each member advocating a point of view reasonably related to the election shall be allowed to use, if available, the Association's common area at no cost to the member or candidate.

2. **Reservation.** Each candidate or member who wants to use the common area pursuant to this rule must make a reservation in advance of the date and time requested. Candidates' and members' requests to use the common area shall be 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 and each member shall only be allowed to make one (1) reservation per day to use the common area.

C. 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 shall not include the photograph or prominently feature the name of any candidate on a communication from the Association or its Board, excepting the ballot and ballot materials, within thirty (30) days of an election. This restriction does not preclude directors from advocating the election or defeat of any issue or candidate on the ballot. However, they may not use Association funds to do so.

## IV. INSPECTORS OF ELECTION

### A. Selection.

1. **Process.** Prior to the date ballots are first sent out, the Board of Directors shall, at an open meeting of the Board, select either one (1) or three (3) persons as Inspectors of Election.

2. **Eligible Inspectors.** The Board may select any of the following to serve as an Inspector of Elections:

- a. **Poll Worker.** A volunteer poll worker with the County Registrar of Voters;
- b. **Accountant.** A licensee of the California Board of Accountancy, including any such licensee under contract to the Association;
- c. **Notary.** A notary public;
- d. **Recording Secretary.** A recording secretary, including any such recording secretary under contract to the Association;
- e. **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;
- f. **Person or Entity under Contract to the Association.** A person, business entity, or subdivision of a business entity who is currently employed or under contract to the Association for any compensable services;
- g. **Management Company Representative.** Representatives of any management company, including the representative of any management company under contract to the Association.

### B. Duties. Duties of Inspectors of Election shall include the following:

- 1. **Membership.** Determine the number of memberships entitled to vote and the voting power of each.
- 2. **Closing and Reopening of Polls.** Determine when the polls shall close and determine whether to reopen the polls to allow members to cast a ballot after the polls have been closed.
- 3. **Receive Ballots.** Receive all ballots. Once a secret ballot has been received by an Inspector of Elections, it shall be irrevocable.
- 4. **Custody.** Maintain custody of the sealed ballots at all times. 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 and until the time allowed by Section 7527 of the Corporations Code 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, shall open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated. The Inspector of Elections or 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.

5. **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 or Inspectors of election shall make the ballots available for inspection and review upon written request. An Association member may authorize a representative to review the ballots on his or her behalf. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.

6. **Counting.** Count and tabulate all votes. All votes shall be counted and tabulated by an Inspector of Elections or his or her designee 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.

7. **Appoint Assistants.** Appoint and oversee additional independent third parties to verify signatures, and to count and tabulate votes as the Inspectors of election deem appropriate provided that such persons are independent third parties.

8. **Results.** Determine the tabulated results of the election.

9. **Impartiality.** Perform their duties impartially, in good faith, to the best of their ability, and as expeditiously as is practical. Any report made by the Inspectors of Election is prima facie evidence of the facts stated in the report.

10. **Miscellaneous.** Perform any acts as may be proper to conduct the election with fairness to all members in accordance with the Davis-Stirling Act, 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 Davis-Stirling Act.

C. Removal. The Board shall have the power to remove Inspectors who cease to meet the required qualifications, are unable or unwilling to perform their duties, or for other good reason, and to appoint new Inspectors in their place.

## **V. BALLOTS AND PROXIES**

### **A. Voting Rights.**

1. **Number of Votes.** Each member shall be entitled to one (1) vote per unit on all matters presented to the members for a vote.

2. **Record Date.** Unless the Board sets a “Record Date” for an election, the Record Date shall be the date that ballots are mailed to the Membership. Only those Owners on title as of the Record Date shall be entitled to vote. Persons acquiring title to a Unit after the Record Date can attend the membership meeting but cannot vote.

3. **Proof of Membership.** No person or entity may exercise the rights of membership without an ownership interest in property which is subject to the Association’s CC&Rs. If the Board should request proof of ownership, such proof shall be in the form of a recorded deed or, if the property was transferred within the past thirty (30) days and a copy of the newly recorded deed is not available, a completed escrow closing statement shall suffice.

4. **No Cumulative Voting.** Cumulative voting shall not be permitted.

5. **Co-Owners.** Where there is more than one (1) owner of a property (“co-owner”) subject to the Association’s CC&Rs, all such co-owners shall be members and may attend any meeting of the Association, but only one co-owner shall be entitled to exercise the vote to which the property is entitled.

6. **Presumption of Consent.** Unless the Inspector of Elections receives a written objection prior to the close of balloting from a co-owner, it shall be conclusively presumed that the voting owner is acting with the consent of his or her co-owners.

7. **Voting for Candidates Properly Nominated.** Members must vote only for those candidate(s) who have been properly nominated prior to the close of nominations.

B. Proxies. Proxy voting is not allowed.

C. Ballots.

1. **Official Ballots/Non Revocable.** Only those ballots prepared on behalf of the Association (“Official Ballots”) may be used in the election. Once an Official Ballot has been received by an Inspector of Elections, it is irrevocable.

2. **Secret Ballot.** All items legally requiring a vote of the membership shall be held by secret ballot, including but not limited to assessments, selection and removal of members of the Association’s board of directors, amendments to the governing documents, or the grant of exclusive use of common area property.

a. **Signature.** Ballots do not require a signature. Ballots signed by members remain valid.

b. **Inner Envelope.** The Association will provide two envelopes. So as to preserve secrecy, an inner envelope with no identifying information is for the ballot. This is then 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 then print his/her name and address. The outer envelope must be addressed to the Inspector of Elections.

d. **Delivery.** The envelope may be mailed to the address on the envelope or delivered to a location specified by the Inspectors of Election. The member may request a receipt for delivery.

3. **Quorum by Ballot.** Each ballot received by an Inspector of Elections is deemed as a member present at a meeting for purposes of establishing a quorum.

4. **Ballot Delivery to Members.** Ballots and two (2) preaddressed envelopes with instructions on how to return ballots will be mailed by first-class mail or delivered to every member not less than thirty (30) days prior to the deadline for voting.

## VI. PETITIONS

A. 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.

B. 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. If there are ten owners on title for one unit, all of whom sign a petition, it counts as one signature not ten.

C. Withdrawal of Signatures. A petition can be rendered invalid if a sufficient number of signers withdraw their names such that the number of remaining signers falls below 5% of total voting power of the membership.

D. Setting the Date. The date of the special meeting shall be set by the Board and may not be less than 35 nor more than 90 days from receipt of request. Notice of the date shall be given to the membership not more than 20 days from receipt of the petition.

E. Recall Petitions. Recalls may not 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 90 days; (b) a recall election has been determined in the board's or director's favor within the last six months; or (c) for the recall of a board an annual meeting will be held within six months or less or the recall of individual directors, their term will end within six months or less. Additionally, if a recall of the entire board fails, a six-month waiting period must be observed before recall petitions may be filed against individual directors.

## **VII. MEETING PROCEDURES**

- A. Chair of Meeting. The President of the Board shall call the membership meeting to order and shall chair the meeting unless a majority of the Board selects another person to chair the meeting.
- B. Quorum. The quorum requirement for membership meetings is a majority of the voting power of the Association, excluding those members whose voting rights have been suspended. When a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be the act of the members.
- C. Loss of Quorum. The members present at a duly called meeting at which a quorum is present may continue to transact business until the loss of a quorum. The business must be approved by enough members to constitute at least a majority of a quorum had a quorum been present.
- D. Lack of Quorum. In the absence of a quorum, 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 shall be to a date no later than forty-five (45) days from the date the original meeting was called. If a new date for the adjourned meeting is announced prior to adjournment, no further notice need be given to the membership. If a new date is not announced prior to adjournment, the Board President (or the remaining directors in the President's absence or failure to act) may set the date for a subsequent meeting and shall be given either personally or by first-class mail, charges prepaid, and addressed to each member: (i) at the address appearing on the books of the Association, (ii) at the address given by the member for the purpose of notice, or (iii) at the address of the member's unit, if no address appears on the Association's books and no other address has been given. Notice shall be deemed to have been given at the time when delivered personally or deposited in the mail.
- E. Counting Ballots. The Inspectors of Election, or his or her designee, shall count and tabulate all official ballots in public at a properly noticed open meeting of the Board of Directors or members. 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. Any candidate or other member of the Association may witness the counting and tabulation of the votes.
- F. Breaking a Tie. In the event of a tie, all other newly elected Directors shall immediately begin serving their terms. An incumbent Director whose seat was tied shall continue in office until a runoff election determines the winner for his/her seat. Only those candidates who tied for the seat shall be in the runoff. In lieu of a runoff and if the tied candidates agree, the winner may be decided by a coin toss or the drawing of names by the Inspector of Elections.



## **VIII. POST-ELECTION RESULTS**

- A. Results of the Election. The tabulated results of the election shall be announced immediately after all the ballots have been counted. The tabulated results of the election shall be promptly reported to the Board of Directors and shall be recorded in the minutes of the next Board meeting. Within fifteen (15) days of the election, the Board shall publicize the tabulated results of the election in a communication directed to all members.
- B. Status of the Ballots after Election. 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 and until the time allowed by Section 7527 of the Corporations Code for challenging the election has expired, at which time custody shall be transferred to the Association. 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, after which the election materials may be disposed of.
- C. Election Recount. Any member of the Association may demand a recount of the ballots provided (i) demand is made in writing to the Inspector of Elections within five days after the election results have been announced, and (ii) the member pays in advance for the cost of the recount. Monies advanced by the member shall be refunded if the outcome of the election is changed by the recount. The recount shall be commenced not less than seven days following the request for the recount and shall be done under the supervision of the Inspector of Elections. The 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 of Elections and under the supervision of the Inspector. The results of the recount shall be reported to the Board of Directors and shall be recorded in the minutes of the next Board meeting and reported to the membership.
- D. Inspection of Ballots. Election materials may be inspected by any member upon payment in advance of costs related to the inspection. No election materials may be touched or handled by any person without the express consent of the Inspector of Elections and under the supervision of the Inspector.