



**Niguel Shores Community Association**

33654 Niguel Shores Drive  
Dana Point, California 92629-4221  
(949) 493-0122 • Fax (949) 388-7892

May 30, 2025

**NOTICE OF PROPOSED RULE CHANGES**

Dear Niguel Shores Community Association Member:

Our annual review of the rule set has concluded. The following proposed rule changes are currently under review by the Board.

**Process for Rule Changes:**

As required by Civil Code, the proposed rule changes will contain the original rule, proposed revised rule, and rationale for the proposed change.

The following steps must be taken for the Board to adopt, amend, or change an existing rule:

1. The proposed changes are submitted to the membership for a 28-day review and comment period.
2. The Board reviews all comments submitted during the designated review period.
3. The Board will then vote during an open session meeting to either accept the rule as published or reject the proposed change.
4. Accepted rules are published and mailed to membership within fifteen (15) days of their adoption.

**Membership Review and Comment Period:**

Comments from the membership, either for or against any rule, are one of the many tools used by the Board when deciding whether they will adopt or reject a proposed rule change. The membership is encouraged to provide written comments that are submitted either via mail, fax, or email ([kdecker@niguelshores.org](mailto:kdecker@niguelshores.org) – reference ‘Proposed Rule Changes’). All comments must be provided prior to 5:00 p.m. on July 1, 2025, to be considered by the Board. For those who chose to submit a written response, a form has been included with this package for your convenience. Please note this form is not required. Handwritten, typed, or email responses are also accepted.

The Board will vote to either accept or reject proposed changes to the rules during the April 2025 General Session Meeting.

On behalf of the Board of Directors, thank you, and your comments and opinion will be greatly appreciated.

Sincerely,

On Behalf of the NSCA Board of Directors

Karen Decker  
*Architectural Manager*

Enclosure:      Proposed Rule Changes



## 2025 PROPOSED RULE CHANGES

| RULE NAME   | REASON   |
|---|--|
| Membership Meetings, Annual Meeting, Election of Directors and Membership Votes | Change to Existing Rule:<br>To comply with Civil Code                                  |
| Inspector of Elections  | Change to Existing Rule:<br>To comply with Civil Code                                  |
| Electronic Voting   | New Rule:<br>To comply with Civil Code   |
| Written Secret Ballot Process   | Change to Existing Rule:<br>To comply with Civil Code                                  |
| Registration of Proxies/Determination of Quorum                                 | Change to Existing Rule:<br>To comply with Civil Code                                  |
| Nomination/Balloting  | Change to Existing Rule:<br>To comply with Civil Code                                  |
| After Tabulation  | Change to Existing Rule:<br>To comply with Civil Code                                  |
| General Parking Regulations – Overnight Parking                                 | Change to Existing Rule:<br>The qualifications for a parking waiver have been adjusted |



## REQUEST TO CHANGE OR ADD TO THE RULES AND REGULATIONS

Date Submitted: 05/27/2025

☐ New Rule:

☒ Change to Existing Rule: Membership Meetings, Annual Meeting,  
Election of Directors and Membership Votes

### **State Existing Rule:**

#### **Membership Meetings, Annual Meeting, Election of Directors and membership Votes**

- 1) The Association will hold an Annual Meeting of the membership to elect Directors and to conduct Association business.
- 2) The Board of Directors consists of five Directors. Directors are elected for two (2) year terms. In years ending in even numbers, three (3) Directors are elected. In years ending in odd numbers, two (2) Directors are elected.
- 3) Director/Candidate Qualifications:
  - a. Must be a Member of the Association at the time of nomination.
  - b. Must be a natural person, not a corporation or a trust. A corporation or trust may be represented by the appointment of a natural person, including a trustee of a trust or a natural person appointed pursuant to a corporate resolution.
  - c. Candidates for election to the Board of Directors shall be disqualified for any of the following reasons:
    - i. If a Member for less than 1 year at the time of nomination.
    - ii. If the Candidate discloses or the Association becomes aware of a past criminal conviction that either prevents the purchase of fidelity bond coverage or terminates the existing fidelity bond coverage should the person be elected. The Association shall have no obligation to investigate the background or possible history of any candidate.
    - iii. If the Candidate would be serving on the Board at the same time as someone else on title for their separate interest and the other person is properly nominated or an incumbent director.
    - iv. A member who is delinquent in the payment of the regular assessments and special assessments (not including nonpayment of fines, fines renamed as assessments, collection charges, late charges, or costs levied by a third party) is not qualified to be a nominee. A member shall not be disqualified for failure to be current in payments of the regular assessments and special assessments if either of the following circumstances is true: The member has paid the regular common assessments or special assessments under protest pursuant to Civil Code section 5658; the member has entered into and is in compliance with a payment plan pursuant to Civil Code section 5665.
    - v. Prior to disqualifying any member from being a nominee, the Association shall offer the member an opportunity to engage in internal dispute resolution pursuant to Civil Code section 5900 et. Seq.
    - vi. Directors shall also comply with these requirements.
- 4) The Board of Directors will appoint a nominating committee approximately 110 days prior to the Annual Meeting date, for the purpose of placing names into nomination for election to the Board pursuant to the Association's Bylaws. The Association will send out to all members a request-for-candidates form, seeking candidates for the Board, approximately 105 days prior to the Annual Meeting date. All forms must be completed by the candidate and must be received by the Association by the deadline stated in the form in order for a candidate's name to appear on the Notice of Annual Meeting and the Ballot. If the fully completed form is not received by the

Association by the deadline date, a candidate may still be nominated by himself, herself or by someone else from the floor of the Annual Meeting or by submittal of a written nomination to the Inspector(s) of Election prior to the deadline described in Rule 5 below. Nominations will be valid so long as the nominee has either nominated himself/herself or provides written notice of acceptance of the nomination prior to the close of nominations. Nominations may also be made by a petition delivered to any officer of the Association, signed within eleven (11) months prior to the Annual Meeting by at least two percent (2%) of the voting power of the Association, pursuant to the Association's Bylaws.

- 5) The Association may, but need not, provide individual notice of the election and procedure for nominating candidates, at least ninety (90) days before the deadline for submitting nominations, stating (i) the number of positions to be filled, (ii) the deadline for submitting nominations, (iii) the manner in which nominations can be submitted, and (iv) a statement that if, at the close of nominations, the number of candidates does not exceed the positions to be filled, the Board of Directors may vote to elect those candidates by acclamation without balloting. Between seven (7) and thirty (30) days prior to the deadline for nominations, the Board may, but need not, send a reminder notice including these statements, and a list of all qualified candidates. If the Association provides the notices described in this Rule, the Association shall provide, within seven (7) business days of receiving a nomination, (x) a written or electronic communication acknowledging the nomination to the member who submitted the nomination, and (y) a written or electronic communication to the nominee, indicating either of the following: (1) the nominee is a qualified candidate for the board of directors; or (2) the nominee is not a qualified candidate for the board of directors, the basis for the disqualification, and the procedure by which the nominee may appeal the disqualification.
- 6) The Board of Directors may (but is not required to) approve a motion to elect the qualified candidates by acclamation if: (i) following the deadline to submit nominations (per Rule 5, above) the number of qualified candidates does not exceed the number of open seats; (ii) the Association has sent the individual notices required by Rule 5, above; (iii) the Association has held a regular election for directors within the past three (3) years; and (iv) the agenda for the meeting where the motion is made includes the name of each qualified candidate.
- 7) The candidacy form will include the opportunity for each candidate to submit a 150-word written statement which is reasonably related to the election, including advocating a point of view. Candidate's statements will be included with the Association's mailing of the Notice and Ballot materials. The Association will not edit or redact these statements but may include a statement specifying that the candidate is responsible for that content.
- 8) Meet the Candidates Night - The Association will hold an informal gathering not less than 15 days prior to the Annual Meeting. All candidates may participate, including those who did not submit a candidate's form but who have advised the Association of their intention to be nominated from the floor of the Annual Meeting. Each candidate may give an oral statement of his/her qualifications of no longer than five minutes per candidate. Questions may also be directed to any candidate by the members present at the meeting. The candidates are not required to attend the Meet the Candidates Night, to make a statement, or to answer questions but are encouraged to do so.
- 9) Secret Ballots: The Association will utilize a secret ballot process, which is now required by California law, as described below, for:
  - a) A vote of the membership regarding assessments legally requiring a vote per Civil Code Section 5605(b)
  - b) Election and removal of members of the Association's Board of Directors
  - c) Amendments to the governing documents
  - d) Grant of exclusive-use common area property pursuant to Civil Code Section 4600
  - e) Any other membership votes, including removal of directors, which may be required or allowed by law.

- f) The Association's Annual Meeting will be set by the Board to occur each year on a date and at a time in the month of May. The Association will send out a Notice of Annual Meeting/Instructions for Voting, not less than thirty (30) days nor more than ninety (90) days prior to the deadline for voting, which will advise all members of times when polls will open and close. The Notice will also state the dates and times when the members and candidates may attend the Annual Meeting and/or Board of Directors' meeting to witness the inspectors' registration, review, count and tabulation of the Ballots. The notice may also state the specific dates and times at which access to common area meeting space will be made available to all candidates and members advocating a point of view at no charge for purposes reasonably related to the election.
- g) Other meetings of the members ("Special Membership Meetings") may be noticed and held by the Association to vote on matters which are proper for member vote. The Board may also determine not to notice/hold membership meetings for votes on matters, except for election and removal of directors/annual meetings, and may conduct the vote by secret ballot process and have the ballots counted and tabulated at a regular open Board meeting.
- h) The Directors must be elected by secret ballot and cannot be elected by voice vote or show of hands at the Annual Meeting.
- i) Other business at the Annual or other membership meeting, such as approval of minutes, motions to close registration, motions to cease balloting, motions to adjourn and other parliamentary procedures required by a recognized system of parliamentary procedure may be conducted by a show of hands, voice vote or other recognized method, including a roll call vote.
- j) All membership meetings and votes will be conducted in accordance with the Association's Governing Documents and California Corporations and Civil Codes, as appropriate.
- k) Members will have one vote per Lot owned. In no event shall more than one vote be cast with respect to any particular Lot.
- l) Cumulative voting is not permitted pursuant to the Association's Bylaws.

**State Rule with recommended changes:**

**Membership Meetings, Annual Meeting, Election of Directors and membership Votes**

- 1) The Association will hold an Annual Meeting of the membership to elect Directors and to conduct Association business.
- 2) The Board of Directors consists of five Directors. Directors are elected for two (2) year terms. In years ending in even numbers, three (3) Directors are elected. In years ending in odd numbers, two (2) Directors are elected.
- 3) Director/Candidate Qualifications:
  - a. Must be a Member of the Association at the time of nomination.
  - b. Must be a natural person, not a corporation or a trust. A corporation or trust may be represented by the appointment of a natural person, including a trustee of a trust or a natural person appointed pursuant to a corporate resolution.
  - c. Candidates for election to the Board of Directors shall be disqualified for any of the following reasons:
    - i. If a Member for less than 1 year at the time of nomination.
    - ii. If the Candidate discloses or the Association becomes aware of a past criminal conviction that either prevents the purchase of fidelity bond coverage or terminates the existing fidelity bond coverage should the person be elected. The

Association shall have no obligation to investigate the background or possible history of any candidate.

- iii. If the Candidate would be serving on the Board at the same time as someone else on title for their separate interest and the other person is properly nominated or an incumbent director.
  - iv. A member who is delinquent in the payment of the regular assessments and special assessments (not including nonpayment of fines, fines renamed as assessments, collection charges, late charges, or costs levied by a third party) is not qualified to be a nominee. A member shall not be disqualified for failure to be current in payments of the regular assessments and special assessments if either of the following circumstances is true: The member has paid the regular common assessments or special assessments under protest pursuant to Civil Code section 5658; the member has entered into and is in compliance with a payment plan pursuant to Civil Code section 5665.
  - v. Prior to disqualifying any member from being a nominee, the Association shall offer the member an opportunity to engage in internal dispute resolution pursuant to Civil Code section 5900 et. Seq.
  - vi. Directors shall also comply with these requirements.
- 4) The Board of Directors will appoint a nominating committee approximately ~~110~~ 120 days prior to the Annual Meeting date, for the purpose of placing names into nomination for election to the Board pursuant to the Association's Bylaws. The Association will send out to all members a request-for-candidates form, seeking candidates for the Board, approximately ~~105~~ 110 days prior to the Annual Meeting date. All forms must be completed by the candidate and must be received by the Association by the deadline stated in the form in order for a candidate's name to appear on the Notice of Annual Meeting and the Ballot. If the fully completed form is not received by the Association by the deadline date, a candidate may still be nominated by himself, herself or by someone else from the floor of the Annual Meeting or by submittal of a written nomination to the Inspector(s) of Election prior to the deadline described in Rule 5 below. Nominations will be valid so long as the nominee has either nominated himself/herself or provides written notice of acceptance of the nomination prior to the close of nominations. **However, for elections where the Association utilizes an electronic secret ballot internet-based voting system, the nomination of candidates from the floor of the election meeting is prohibited pursuant to Civil Code Section 5105(i)(1)(F).** Nominations may also be made by a petition delivered to any officer of the Association, signed within eleven (11) months prior to the Annual Meeting by at least two percent (2%) of the voting power of the Association, pursuant to the Association's Bylaws.
- 5) The Association may, but need not, provide individual notice of the election and procedure for nominating candidates, at least ninety (90) days before the deadline for submitting nominations, stating (i) the number of positions to be filled, (ii) the deadline for submitting nominations, (iii) the manner in which nominations can be submitted, and (iv) a statement that if, at the close of nominations, the number of candidates does not exceed the positions to be filled, the Board of Directors may vote to elect those candidates by acclamation without balloting. Between seven (7) and thirty (30) days prior to the deadline for nominations, the Board may, but need not, send a reminder notice including these statements, and a list of all qualified candidates. If the Association provides the notices described in this Rule, the Association shall provide, within seven (7) business days of receiving a nomination, (x) a written or electronic communication acknowledging the nomination to the member who submitted the nomination, and (y) a written or electronic communication to the nominee, indicating either of the following: (1) the nominee is a qualified candidate for the board of directors; or (2) the nominee is not a qualified candidate for the board of directors, the basis for the disqualification, and the procedure by which the nominee may appeal the disqualification.
- 6) The Board of Directors may (but is not required to) approve a motion to elect the qualified candidates by acclamation if: (i) following the deadline to submit nominations (per Rule 5,

above) the number of qualified candidates does not exceed the number of open seats; (ii) the Association has sent the individual notices required by Rule 5, above; (iii) the Association has held a regular election for directors within the past three (3) years; and (iv) the agenda for the meeting where the motion is made includes the name of each qualified candidate.

- 7) The candidacy form will include the opportunity for each candidate to submit a 150-word written statement which is reasonably related to the election, including advocating a point of view. Candidate's statements will be included with the Association's mailing of the Notice and Ballot materials. The Association will not edit or redact these statements but may include a statement specifying that the candidate is responsible for that content.
- 8) Meet the Candidates Night - The Association ~~will~~ *may* hold an informal gathering not less than 15 days prior to the Annual Meeting. All candidates may participate, including those who did not submit a candidate's form but who have advised the Association of their intention to be nominated from the floor of the Annual Meeting. Each candidate may give an oral statement of his/her qualifications of no longer than five minutes per candidate. Questions may also be directed to any candidate by the members present at the meeting. The candidates are not required to attend the Meet the Candidates Night, to make a statement, or to answer questions but are encouraged to do so.
- 9) ~~Secret Ballots: The Association will utilize a secret ballot process, which is now required by California law, as described below, for:~~
  - a) ~~A vote of the membership regarding assessments legally requiring a vote per Civil Code Section 5605(b)~~
  - b) ~~Election and removal of members of the Association's Board of Directors~~
  - c) ~~Amendments to the governing documents~~
  - d) ~~Grant of exclusive use common area property pursuant to Civil Code Section 4600~~
  - e) ~~Any other membership votes, including removal of directors, which may be required or allowed by law.~~

*(The following points will be incorporated into point 8)*

- a) *The Association's Annual Meeting will be set by the Board to occur each year on a date and at a time in the month of May. The Association will send out a Notice of Annual Meeting/Instructions for Voting, not less than thirty (30) days nor more than ninety (90) days prior to the deadline for voting, which will advise all members of times when polls will open and close. The Notice will also state the dates and times when the members and candidates may attend the Annual Meeting and/or Board of Directors' meeting to witness the inspectors' registration, review, count and tabulation of the Ballots. The notice may also state the specific dates and times at which access to common area meeting space will be made available to all candidates and members advocating a point of view at no charge for purposes reasonably related to the election.*
- b) *Other meetings of the members ("Special Membership Meetings") may be noticed and held by the Association to vote on matters which are proper for member vote. The Board may also determine not to notice/hold membership meetings for votes on matters, except for election and removal of directors/annual meetings, and may conduct the vote by secret ballot process and have the ballots counted and tabulated at a regular open Board meeting.*
- c) *The Directors must be elected by secret ballot and cannot be elected by voice vote or show of hands at the Annual Meeting.*
- d) *Other business at the Annual or other membership meeting, such as approval of minutes, motions to close registration, motions to cease balloting, motions to adjourn and other parliamentary procedures required by a recognized system of parliamentary procedure may be conducted by a show of hands, voice vote or other recognized method, including a roll call vote.*
- e) *All membership meetings and votes will be conducted in accordance with the Association's Governing Documents and California Corporations and Civil Codes, as appropriate.*

- f) Members will have one vote per Lot owned. In no event shall more than one vote be cast with respect to any particular Lot.*
- g) Cumulative voting is not permitted pursuant to the Association's Bylaws.*

**Rationale for change:**

The proposed adjustment to this rule reflects the recent change to the Civil Code. The proposed wording cannot be modified as the rule must comply with existing state law.





## REQUEST TO CHANGE OR ADD TO THE RULES AND REGULATIONS

Date Submitted: 05/27/2025

☐

New Rule:

☒

Change to Existing Rule: Inspector(s) of Election

### **State Existing Rule:**

#### **Inspector(s) of Election**

- 1) One (1) or three (3) inspector(s) of election ("Inspector(s)") will be selected and appointed by the Board of Directors at an open Board meeting, approximately ninety (90) days prior to the date of the Annual Meeting, other membership meeting or vote.
- 2) The Board may, but is not required to, select non-member third parties as the Inspector(s), which may include, but are 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.
- 3) The Board will not select as an Inspector, a member of the Board of Directors, a candidate for the Board of Directors, a relative of a member of the Board or of a candidate, or a person currently employed by or under contract to the Association for other compensable services other than serving as Inspector(s).
- 4) The Board may determine to pay compensation to the non-member third party Inspector(s), if any. If the Board determines to appoint and pay an independent third party, the Board will require the following terms to be met by the independent third-party Inspector(s):
  - a) A formal written contract for the Inspector(s) to be hired as independent contractor(s)
  - b) The Inspector(s) will maintain insurance with at least \$1 million CGL coverage (naming the Association as additional insured), including completed operations coverage, and \$1 million D&O/E&O.
  - c) The Inspector(s) shall receive and store election envelopes and ballots for at least twelve (12) months, then turn the documents over to the Association;
  - d) Contract to require independent third-party Inspector(s) to indemnify Association if independent third-party Inspector(s) is grossly negligent or commits malicious and/or willful misconduct.
- 5) If an Inspector is unwilling to, unable to, or does not, perform his/her duties as stated in these rules, or becomes ineligible to be an Inspector at any time after appointment the Board may remove that Inspector without notice, and may appoint another Inspector in his/her place.
- 6) Inspector(s)' Duties:
  - a) Make corrections to the candidate registration list and voter list;
  - b) At least thirty (30) days before an election, deliver to each member (or cause to be delivered) a Ballot or Ballots and a copy of these Rules. Delivery of these Rules may be accomplished by: posting these Rules to the Association's 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."; or via individual delivery as specified at Civil Code Section 4040.
  - c) Determine number of memberships entitled to vote and the voting power of each;
  - d) Determine the authenticity, validity, and effect of proxies, if any;
  - e) Receive Ballots and proxies, if any;
  - f) Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote;
  - g) Count and tabulate all votes;
  - h) Determine when the polls shall close;
  - i) Determine the results of the election;

- j) Perform any acts as may be proper to conduct the election with fairness to all members, in accordance with California law and these rules;
  - k) All duties must be performed in good faith, to the best of the Inspector(s)' ability, and as expeditiously as practical, and in a manner that protects the interest of all members;
  - l) Prior to the mailing of the Ballots by the Association, the Inspector(s) will determine the location where the sealed ballots will be mailed or delivered and where the Inspector(s) will maintain custody of the sealed ballots before and after the tabulation of the vote by the Inspector(s). The Inspector(s) may select the Association's management office or a private post office box to receive the sealed ballots on behalf of the Inspector(s). Where the Inspector(s) are volunteers, the Association's management office or a private post office box shall be the preferred receipt and storage location. Management will not organize, register, open, review or count the ballots. The Inspector(s) will not select his/her/their own residences as the location where the ballots will be mailed/received. Professional Inspector(s) may designate their business address as the location where the ballots will be mailed/received.
  - m) In the event of an election challenge, the Inspector(s) shall, upon written request, make the Ballots available for inspection and review by an Association Member or Member's authorized representative. In order to protest the security of the Secret Ballot, one or more Association representatives must be present during such review.
- 7) The Inspector(s) may appoint additional personnel to assist them in their duties, including registration, counting and tabulating, but the Inspector(s) will oversee and be responsible for all actions of such personnel. Any additional persons appointed to assist the Inspector(s) must meet the qualifications stated above. Only the Inspector(s) may sign the Inspector(s)' report of the election, but additional persons must sign an oath regarding his/her/their duties.
  - 8) If there are three Inspectors, the decision to act must be by a majority of the Inspectors and is effective, in all respects, as the decision of all.
  - 9) The Inspector(s)' report of the election shall be prepared for all votes, and once signed to certify the election, is prima facie evidence of the facts stated in the report.

### **State Rule with recommended changes:**

#### **Inspector(s) of Election**

- 1) One (1) or three (3) inspector(s) of election ("Inspector(s)") will be selected and appointed by the Board of Directors. ~~at an open Board meeting, approximately ninety (90) days prior to the date of the Annual Meeting, other membership meeting or vote.~~
- 2) The Board may, but is not required to, select non-member third parties as the Inspector(s), which may include, but are 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.
- 3) The Board will not select as an Inspector, a member of the Board of Directors, a candidate for the Board of Directors, a relative of a member of the Board or of a candidate, or a person currently employed by or under contract to the Association for other compensable services other than serving as Inspector(s).
- 4) The Board may determine to pay compensation to the non-member third party Inspector(s), if any. If the Board determines to appoint and pay an independent third party, the Board will require the following terms to be met by the independent third-party Inspector(s):
  - a) A formal written contract for the Inspector(s) to be hired as independent contractor(s)
  - ~~b) The Inspector(s) will maintain insurance with at least \$1 million CGL coverage (naming the Association as additional insured), including completed operations coverage, and \$1 million D&O/E&O.~~
  - b) The Inspector(s) shall receive and store election envelopes and ballots for at least twelve (12) months, then turn the documents over to the Association;

~~d) Contract to require independent third party Inspector(s) to indemnify Association if independent third party Inspector(s) is grossly negligent or commits malicious and/or willful misconduct.~~

5) If an Inspector is unwilling to, unable to, or does not, perform his/her duties as stated in these rules, or becomes ineligible to be an Inspector at any time after appointment the Board may remove that Inspector without notice, and may appoint another Inspector in his/her place.

6) Inspector(s)' Duties:

a) Make corrections to the candidate registration list and voter list;

b) At least thirty (30) days before an election, deliver to each member (or cause to be delivered) a Ballot or Ballots (electronic secret ballot or written secret ballot, as appropriate) and a copy of these Rules. Delivery of these Rules may be accomplished by: posting these Rules to the Association's 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."; or via individual delivery as specified at Civil Code Section 4040.

c) Determine number of memberships entitled to vote and the voting power of each;

d) Determine the authenticity, validity, and effect of proxies, if any;

e) Receive Ballots and proxies, if any;

**f) If the Inspector(s) conducts an election by electronic secret ballot, the Inspector(s) shall ensure compliance with the following: (1) each member voting by electronic secret ballot shall be provided with all of the following: (a) a method to authenticate the member's identity to the internet-based voting system, (b) a method to transit an electronic secret ballot to the internet-based voting system that ensures the secrecy and integrity of each ballot, and (c) a method to confirm, at least 30 days before the voting deadline that the member's electronic device can successfully communicate with the internet-based voting system; and (2) any internet-based voting system that is utilized shall have the ability to accomplish all of the following: (a) authenticate the member's identity, (b) authenticate the validity of each electronic secret ballot to ensure that the electronic secret ballot is not altered in transit, (c) transmit a receipt from the internet-based voting system to each member who casts an electronic secret ballot, (d) permanently separate any authenticating or identifying information from the electronic secret ballot, rendering it impossible to connect an election ballot to a specific member, and (e) store and keep electronic secret ballots accessible to elections officials or their authorized representatives for recount, inspection, and review purposes.**

**g)** Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote;

**h)** Count and tabulate all votes;

**i)** Determine when the polls shall close;

**j)** Determine the results of the election;

**k)** Perform any acts as may be proper to conduct the election with fairness to all members, in accordance with California law and these rules;

**l)** All duties must be performed in good faith, to the best of the Inspector(s)' ability, and as expeditiously as practical, and in a manner that protects the interest of all members;

**m)** Prior to the mailing of the Ballots by the Association, the Inspector(s) will determine the location where the sealed ballots will be mailed or delivered and where the Inspector(s) will maintain custody of the sealed ballots before and after the tabulation of the vote by the Inspector(s). The Inspector(s) may select the Association's management office or a private post office box to receive the sealed ballots on behalf of the Inspector(s). Where the Inspector(s) are volunteers, the Association's management office or a private post office box shall be the preferred receipt and storage location. Management will not organize, register, open, review or count the ballots. The Inspector(s) will not select his/her/their own residences as the location where the ballots will be mailed/received. Professional Inspector(s)

- may designate their business address as the location where the ballots will be mailed/received.
- n)** In the event of an election challenge, the Inspector(s) shall, upon written request, make the Ballots available for inspection and review by an Association Member or Member's authorized representative. In order to protest the security of the Secret Ballot, one or more Association representatives must be present during such review.
- 7) The Inspector(s) may appoint additional personnel to assist them in their duties, including registration, counting and tabulating, but the Inspector(s) will oversee and be responsible for all actions of such personnel. Any additional persons appointed to assist the Inspector(s) must meet the qualifications stated above. Only the Inspector(s) may sign the Inspector(s)' report of the election, but additional persons must sign an oath regarding his/her/their duties.
- 8) If there are three Inspectors, the decision to act must be by a majority of the Inspectors and is effective, in all respects, as the decision of all.
- 9) The Inspector(s)' report of the election shall be prepared for all votes, and once signed to certify the election, is prima facie evidence of the facts stated in the report.

**Rationale for change:**

The proposed adjustment to this rule reflects the recent change to the Civil Code. The proposed wording cannot be modified as the rule must comply with existing state law.



## REQUEST TO CHANGE OR ADD TO THE RULES AND REGULATIONS

Date Submitted: 05/27/2025

☒ New Rule: Electronic Voting

☐ Change to Existing Rule:

### State Rule proposed rule:

#### Electronic Voting

- 1) The Association may select an Inspector to conduct an election (except an election regarding regular or special assessments) that utilizes electronic secret ballots as an option for voting.
- 2) Members can opt in to receive an electronic secret ballot instead of a written secret ballot. Only members that have opted in and provided the Association a valid e-mail address will be sent an electronic secret ballot instead of a secret written ballot. All other members will be sent a written secret ballot.
- 3) No later than 90 days before an election, members may change their preferred method of voting (from written secret ballot to electronic secret ballot and from electronic secret ballot to written secret ballot).
- 4) At least 30 days before the deadline to opt out of voting by electronic secret ballot and to opt in to voting by written secret ballot, the Association shall provide individual notice of the following: (a) the member's current voting method; (b) if the member's voting method is by electronic secret ballot and the Association has an email address for the member, the email address of the member that will be used for voting by electronic secret ballot; (c) an explanation that the member is required to opt out of voting by electronic secret ballot if the member elects to vote by written secret ballot; (d) an explanation of how a member may opt out of voting by electronic secret ballot; and (e) an explanation of how a member is required to opt out of voting by electronic secret ballot if the member elects to exercise that right.
- 5) The electronic secret ballot and the written secret ballot must contain the same list of items to be voted on.
- 6) The Association will maintain a voting list identifying which members will vote by electronic secret ballot and which members will vote by written ballot. The Association will include information on the procedures to opt in or out of voting by electronic secret ballot in the annual policy statement.
- 7) A member that elects to vote by electronic secret ballot must provide a valid e-mail address to the Association.

### Rationale for change:

The proposed rule reflects the recent change to the Civil Code. The proposed wording cannot be modified as the rule must comply with existing state law.



## REQUEST TO CHANGE OR ADD TO THE RULES AND REGULATIONS

Date Submitted: 05/27/2025

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New Rule:

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Change to Existing Rule: Written Secret Ballot Process

### **State Existing Rule:**

#### **Secret Ballot Process**

- 1) At least thirty (30) days before the Ballots are distributed, the Association shall provide general notice of the date and time by which, and the physical address where, Ballots are to be returned by mail or handed to the Inspector(s); the date, time, and location of the meeting where a quorum will be determined and the Ballots will be counted; the list of candidates that will appear on the Ballot; and a statement that the Board of Directors may call a subsequent meeting at least twenty (20) days after the election if the required quorum is not reached, at which time the quorum will be twenty percent (20%) of the Association's membership.
- 2) At least thirty (30) days prior to the Annual Meeting, other membership meeting, or vote taken, the Association will mail to members by first-class mail, the Ballots, along with two pre-addressed envelopes. The Annual Meeting date, other membership meeting date, or deadline date for other votes taken without a meeting will be considered the due date for completed ballots to be received by the Association. A Notice of Meeting will also be sent which will include instructions on how to return Ballots.
- 3) The Ballot itself will not identify voter by name, address, Lot and Tract, parcel number or unit number, or other identifying information.
- 4) The Ballot and Notice will contain the names of any candidates known to the Association at the time the Ballot/Notice is mailed. If no candidates are known or if there are less candidates than the number of directors to be elected, the Association will send out a Ballot which has the names of the candidates known and/or blank lines for write-in candidates.
- 5) Any write-in candidate must be nominated from the floor of the Annual Meeting, by himself, herself or another member, or by written notice which is received by the Inspector(s) prior to the close of nominations, and must be present at the Annual meeting to accept the nomination or have sent written acceptance of the nomination to the Association in advance.
- 6) The Ballot itself is not signed by the voter but is inserted into an envelope which is pre-addressed to the Inspector(s) (Envelope #1).
- 7) The voter then seals Envelope #1 and inserts Envelope #1 into a second pre-addressed envelope (Envelope #2) which is then also sealed by the voter.
- 8) In the upper left-hand corner of Envelope #2, the voter shall sign his or her name, indicate his or her name, and indicate the address or other property identifying account number or Lot and Tract number that entitles him or her to vote. A proxy holder voting on behalf of a member at a meeting shall indicate the name and address or other property identifying account number or Lot and Tract number, of the proxy giver in the upper left-hand corner of Envelope # 2 but shall sign the proxy holder's name on Envelope # 2.
- 9) The owners of multiple properties must submit separate Ballots in separate sealed Ballot Envelopes #1 and #2 for each property owned.
- 10) Envelopes #1 and #2 are pre-addressed to the Inspector(s) at the location selected by the inspector(s).

- 11) Ballots may be mailed to the selected address or delivered by hand by the member to the location selected by the Inspector(s).
- 12) The member may request a receipt for hand delivery of the sealed Envelope #2 to the location selected by the Inspector(s). Any member desiring a receipt for mail delivery should send the Ballot by certified mail, return receipt requested, to the location selected by the Inspector(s).
- 13) Only the Association's Ballots and envelopes which are sent out to the membership by the Association or are provided by the Association at the membership meeting will be accepted by the Inspector(s).

### **State Rule with recommended changes:**

#### **Written Secret Ballot Process**

- 1) At least thirty (30) days before the Ballots are distributed, the Association shall provide general notice of the date and time by which, and the physical address where, Ballots are to be returned by mail or handed to the Inspector(s); the date, time, and location of the meeting where a quorum will be determined and the Ballots will be counted; the list of candidates that will appear on the Ballot; and a statement that the Board of Directors may call a subsequent meeting at least twenty (20) days after the election if the required quorum is not reached, at which time the quorum will be twenty percent (20%) of the Association's membership.
- 2) At least thirty (30) days prior to the deadline for voting: a) For written secret ballots: the secret ballots will be mailed by first-class mail or delivered to every member, along with two preaddressed envelopes and instructions on and deadlines for the return of ballots. b) For electronic secret ballots: individual notice of the electronic secret ballot will be delivered (by electronic submission or other means) to each member voting by electronic secret ballot. The notice will specify the deadline for voting and contain instructions on both of the following: (1) how to obtain access to that internet-based voting system; and (2) how to vote by electronic secret ballot. ~~Annual Meeting, other membership meeting, or vote taken, the Association will mail to members by first class mail, the Ballots, along with two pre-addressed envelopes. The Annual Meeting date, other membership meeting date, or deadline date for other votes taken without a meeting will be considered the due date for completed ballots to be received by the Association. A Notice of Meeting will also be sent which will include instructions on how to return Ballots.~~
- 3) The Annual Meeting date, other membership meeting date, or deadline date for other votes taken without a meeting will be considered the due date for completed ballots to be received by the Association. A Notice of Meeting will also be sent which will include instructions on how to return Ballots.
- 4) The Ballot itself will not identify voter by name, address, Lot and Tract, parcel number or unit number, or other identifying information.
- 5) The Ballot and Notice will contain the names of any candidates known to the Association at the time the Ballot/Notice is mailed. If no candidates are known or if there are less candidates than the number of directors to be elected, and unless candidates are elected by acclamation, the Association will send out a Ballot which has the names of the candidates known and/or blank lines for write-in candidates.
- 6) Any write-in candidate must be nominated from the floor of the Annual Meeting, by himself, herself or another member, or by written notice which is received by the Inspector(s) prior to the close of nominations, and must be present at the Annual meeting to accept the nomination or have sent written acceptance of the nomination to the Association

in advance. **However, for elections where the Association utilizes an electronic secret ballot internet-based voting system, the nomination of candidates from the floor of the election meeting is prohibited pursuant to Civil Code Section 5105(i)(1)(F).**

- 7)** The Ballot itself is not signed by the voter but is inserted into an envelope which is pre-addressed to the Inspector(s) (Envelope #1).
- 8)** The voter then seals Envelope #1 and inserts Envelope #1 into a second pre-addressed envelope (Envelope #2) which is then also sealed by the voter.
- 9)** In the upper left-hand corner of Envelope #2, the voter shall sign his or her name, indicate his or her name, and indicate the address or other property identifying account number or Lot and Tract number that entitles him or her to vote. A proxy holder voting on behalf of a member at a meeting shall indicate the name and address or other property identifying account number or Lot and Tract number, of the proxy giver in the upper left-hand corner of Envelope # 2 but shall sign the proxy holder's name on Envelope # 2.
- 10)** The owners of multiple properties must submit separate Ballots in separate sealed Ballot Envelopes #1 and #2 for each property owned.
- 11)** Envelopes #1 and #2 are pre-addressed to the Inspector(s) at the location selected by the inspector(s).
- 12)** Ballots may be mailed to the selected address, **electronically transmitted (if applicable)**, or delivered by hand by the member to the location selected by the Inspector(s).
- 13)** The member may request a receipt for hand delivery of the sealed Envelope #2 to the location selected by the Inspector(s). Any member desiring a receipt for mail delivery should send the Ballot by certified mail, return receipt requested, to the location selected by the Inspector(s).
- 14)** Only the Association's Ballots and envelopes which are sent out to the membership by the Association or are provided by the Association at the membership meeting will be accepted by the Inspector(s).
- 15) No member shall be denied a ballot for any reason other than not being a member at the time when ballots are distributed. A person with general power of attorney for a member shall not be denied a ballot. The ballot of a person with general power of attorney for a member shall be counted if returned in a timely manner.**

**Rationale for change:**

The proposed adjustment to this rule reflects the recent change to the Civil Code. The proposed wording cannot be modified as the rule must comply with existing state law.





## REQUEST TO CHANGE OR ADD TO THE RULES AND REGULATIONS

Date Submitted: 05/27/2025

☐ New Rule:

☒ Change to Existing Rule: Registration of Proxies/Determination of Quorum/Adjournment for Lack of Quorum

### **State Existing Rule:**

#### **Registration of Proxies/Determination of Quorum/Adjournment for Lack of Quorum**

- 1) If a person brings proxies to the membership meeting, the Inspector(s) will review and make all necessary determinations regarding those proxies, including the validity of those proxies.
- 2) The Inspector(s) will determine prior to or at the meeting, based upon the count of the number of members voting in person, by proxy, or by a mailed or delivered Ballot as shown on the registration list, that quorum has been obtained.
- 3) The quorum consists of not less than fifty percent (50%) of the voting power of the membership. Unless the Board determines to call a subsequent meeting pursuant to Secret Ballot Process Rule 1, at an adjourned meeting, the quorum shall be one-half (1/2) of the required quorum at the preceding meeting.
- 4) If a member has cast a Ballot by mail or delivery which is received by the Inspector(s) prior to the Inspector(s)' receipt of a Ballot cast by the member's proxy holder, the member's Ballot will supersede and control over any proxy submitted or any Ballot later cast by the member's proxy holder. A member may revoke a proxy at any time prior to the Inspector(s)' receipt of a Ballot submitted by the member's proxy holder.
- 5) Upon determination that a quorum has been obtained, the Inspector(s) may close registration at the polls.
- 6) Any Ballots which are cast in person at the Annual Meeting and put directly into the ballot box without Envelopes #1 and #2 for that meeting will not be counted at or used for any adjourned meeting. Ballots which are put directly into the ballot box or received by the Inspector(s) in properly completed, sealed Envelopes #1 and #2 will be valid for adjourned meetings.
- 7) The Ballots will be counted during duly noticed Board or membership meetings. The Inspector(s) may request that any meeting be recessed to allow the Inspector(s) to complete the counting and tabulation of the Ballots at another time. Notice of the recessed meeting will be given to all members and candidates of the location, dates and times when the counting and tabulation will be performed. The Inspector(s) will continue to maintain custody of all Ballots until the counting and tabulation is complete.

### **State Rule with recommended changes:**

#### **Registration of Proxies/Determination of Quorum/Adjournment for Lack of Quorum**

- 1) If a person brings proxies to the membership meeting, the Inspector(s) will review and make all necessary determinations regarding those proxies, including the validity of those proxies.
- 2) The Inspector(s) will determine prior to or at the meeting, based upon the count of the number of members voting in person, by proxy, or by a mailed or delivered Ballot as shown on the registration list, that quorum has been obtained.

- 3) The quorum consists of not less than fifty percent (50%) of the voting power of the membership. Unless the Board determines to call a subsequent meeting pursuant to **Written** Secret Ballot Process Rule 1, at an adjourned meeting, the quorum shall be one-half (1/2) of the required quorum at the preceding meeting.
- 4) If a member has cast a Ballot by mail, **electronically**, or delivery which is received by the Inspector(s) prior to the Inspector(s)' receipt of a Ballot cast by the member's proxy holder, the member's Ballot will supersede and control over any proxy submitted or any Ballot later cast by the member's proxy holder. A member may revoke a proxy at any time prior to the Inspector(s)' receipt of a Ballot submitted by the member's proxy holder.
- 5) Upon determination that a quorum has been obtained, the Inspector(s) may close registration at the polls.
- 6) Any Ballots which are cast in person at the Annual Meeting and put directly into the ballot box without Envelopes #1 and #2 for that meeting will not be counted at or used for any adjourned meeting. Ballots which are put directly into the ballot box or received by the Inspector(s) in properly completed, sealed Envelopes #1 and #2 will be valid for adjourned meetings.
- 7) The Ballots will be counted during duly noticed Board or membership meetings. The Inspector(s) may request that any meeting be recessed to allow the Inspector(s) to complete the counting and tabulation of the Ballots at another time. Notice of the recessed meeting will be given to all members and candidates of the location, dates and times when the counting and tabulation will be performed. The Inspector(s) will continue to maintain custody of all Ballots until the counting and tabulation is complete.

**Rationale for change:**

The proposed adjustment to this rule reflects the recent change to the Civil Code. The proposed wording cannot be modified as the rule must comply with existing state law.



## REQUEST TO CHANGE OR ADD TO THE RULES AND REGULATIONS

Date Submitted: 05/27/2025

☐

New Rule:

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Change to Existing Rule: Nomination/Balloting

### **State Existing Rule:**

#### **Nomination/Balloting**

Once registration for the polls has been closed, if a quorum is present, the membership meeting may proceed with nominations from the floor, followed by balloting, etc.

### **State Rule with recommended changes:**

#### **Nomination/Balloting**

Once registration for the polls has been closed, if a quorum is present, the membership meeting may proceed with nominations from the floor, followed by balloting, etc. **However, for elections where the Association utilizes an electronic secret ballot internet-based voting system, the nomination of candidates from the floor of the election meeting is prohibited pursuant to Civil Code Section 5105(i)(1)(F).**

### **Rationale for change:**

The proposed adjustment to this rule reflects the recent change to the Civil Code. The proposed wording cannot be modified as the rule must comply with existing state law.



## REQUEST TO CHANGE OR ADD TO THE RULES AND REGULATIONS

Date Submitted: 05/27/2025

☐

New Rule:

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Change to Existing Rule: After Tabulation

### **State Existing Rule:**

#### **After Tabulation**

- 1) Results of the election shall be announced and be promptly reported to the Board of Directors and recorded in the minutes of the next meeting of the Board.
- 2) Results shall be available for review by all members after the certification of the membership meeting by the Inspector(s).
- 3) Tie Votes: The vote to break the tie may be taken at the same meeting where the tie was determined. Ballots will be distributed to the members present and to any proxy holders of valid proxies at the meeting. Said vote shall be conducted in accordance with the procedures herein; to the extent they are applicable to a run-off vote. No previously cast ballots or proxies will be used at the meeting to break the tie.
- 4) Within 15 days of the election, the Board shall publicize the results of the election in a communication directed to all the members.
- 5) If the Inspector(s) are professional Inspector(s), they shall store the election records for twelve (12) months after the election, and then transfer the records to the Association. If the Inspector(s) are homeowners or volunteers, they agree to delegate to the Association the responsibility for keeping the election records on behalf of the Inspector(s).
- 6) The Ballots and the envelopes, along with the registration list, will be stored by the Association in a secure place for no less than five years after the date of the election.
- 7) In the event of an election challenge and upon receipt of a written request from a member, the Association will make the Ballots available for inspection and review by Association members or their authorized representatives. In order to protect the security of the Ballots, one or more Association representatives must be present during such review. Any recount shall be conducted in a manner that shall preserve the confidentiality of the vote. However, the Association will not be responsible for redacting or otherwise protecting any identification/other information which is written on a Ballot by a member.
- 8) The Voter List, Candidate Registration List, returned ballots, signed voter envelopes, and proxies are Association Election Materials, which may be reviewed and copied by Owners, except that signed voter envelopes may be inspected but not copied.

### **State Rule with recommended changes:**

#### **After Tabulation**

- 1) Results of the election shall be announced and be promptly reported to the Board of Directors and recorded in the minutes of the next meeting of the Board.
- 2) Results shall be available for review by all members after the certification of the membership meeting by the Inspector(s).

- 3) Tie Votes: The vote to break the tie may be taken at the same meeting where the tie was determined. Ballots will be distributed to the members present and to any proxy holders of valid proxies at the meeting. Said vote shall be conducted in accordance with the procedures herein; to the extent they are applicable to a run-off vote. No previously cast ballots or proxies will be used at the meeting to break the tie.
- 4) Within 15 days of the election, the Board shall publicize the results of the election in a communication directed to all the members.
- 5) If the Inspector(s) are professional Inspector(s), they shall store the election records for twelve (12) months after the election, and then transfer the records to the Association. If the Inspector(s) are homeowners or volunteers, they agree to delegate to the Association the responsibility for keeping the election records on behalf of the Inspector(s).
- 6) The Ballots and the envelopes, along with the registration list, will be stored by the Association in a secure place for no less than five years after the date of the election.
- 7) In the event of an election challenge and upon receipt of a written request from a member, the Association will make the Ballots and, if applicable, the tally sheet of votes cast by electronic secret ballot available for inspection and review by Association members or their authorized representatives. In order to protect the security of the Ballots, one or more Association representatives must be present during such review. Any recount shall be conducted in a manner that shall preserve the confidentiality of the vote. However, the Association will not be responsible for redacting or otherwise protecting any identification/other information which is written on a Ballot by a member.
- 8) The Voter List, Candidate Registration List, returned ballots, signed voter envelopes, and proxies are Association Election Materials, which may be reviewed and copied by Owners, except that signed voter envelopes may be inspected but not copied.

**Rationale for change:**

The proposed adjustment to this rule reflects the recent change to the Civil Code. The proposed wording cannot be modified as the rule must comply with existing state law.



## REQUEST TO CHANGE OR ADD TO THE RULES AND REGULATIONS

Date Submitted: 05/27/2025

☐ New Rule:

☒ Change to Existing Rule: General Parking Regulations - Overnight Parking

### State Existing Rule:

General Parking Regulations

#### 2) Overnight Parking:

Common area space shall not be used for overnight parking of resident vehicles with decals between the hours of 1:00 am and 6:00 am. Residents may apply for a parking variance waiver if the number of vehicles owned and registered by the resident is greater than the number of parking spaces original to the property. The following is required for all waiver requests:

- a) Waiver request application.
- b) Current registration for each vehicle registered to the property.

The following is required annually in order to renew an existing waiver:

- a) Current vehicle registration on each vehicle registered to the property.
- b) A garage inspection.
- c) Payment of the renewal fee. Properties that were originally constructed without a driveway are eligible for up to two (2) parking waivers without payment of a renewal fee.

### State Rule with recommended changes:

General Parking Regulations

#### 2) Overnight Parking:

Common area space shall not be used for overnight parking of resident vehicles with decals between the hours of 1:00 am and 6:00 am. **To qualify to park a vehicle on association streets the following conditions must apply:**

- a) All available parking on the resident's property is used to its maximum capacity to park approved vehicles.**
- b) A resident requesting a street parking waiver must supply the vehicle registration showing the registration is current and the vehicle is registered to the property within Niguel Shores.**
- c) A copy of the vehicle users' driver's license showing they live at the same address the vehicle is registered to. Only one registered drive per vehicle.**

~~Residents may apply for a parking variance waiver if the number of vehicles owned and registered by the resident is greater than the number of parking spaces original to the property. The following is required for all waiver requests:~~

- ~~a) Waiver request application.~~
- ~~b) Current registration for each vehicle registered to the property.~~

The following is required annually in order to renew an existing waiver:

- a) Current vehicle registration on each vehicle registered to the property.
- b) A garage inspection.
- c) Payment of the renewal fee. Properties that were originally constructed without a driveway are eligible for up to two (2) parking waivers without payment of a renewal fee.

### Rationale for change:

To clarify the qualifications for a vehicle to receive a waiver to park on Common Area (street) during restricted hours.