

PASEO DEL SOL MAINTENANCE CORPORATION

NEW RULES FOR ELECTIONS AND VOTING

California Civil Code §§ 5100 - 5145

Updated effective January 1, 2020

Article I

Application of These Rules

I-1. ***Senate Bill 323 (Wieckowski)***. The purpose of these New Rules for Elections and Voting is to amend the established Election Rules for the Sunburst Owners' Association, Inc. ("HOA") to bring them into compliance with the numerous provisions of SB 323 which have been codified in California Civil Code §§ 5100, 5105, 5110, 5125, 5145, 5200, and 5910, effective January 1, 2020. Attached to these rules as **Exhibit A** is a "New Election Rules Timeline – Election of Directors" setting forth the required time parameters under SB 323 for the Election of Directors. The **Exhibit A** Timeline is incorporated herein by this reference. Anytime a provision of these New Rules contradicts the statutory provisions, the statutory provisions shall prevail. These New Rules (and the statutes) also supercede any provision in the HOA's governing documents to the contrary. A "Summary of Changes Enacted by SB 323, Etc.," is attached to these rules as **Exhibit B** and incorporated herein by this reference.

I-2. ***Mandatory Application of Rules***. These Rules For Elections and Voting ("Election Rules") shall apply to all elections regarding assessments legally requiring a vote; election and removal of directors; amendments to the governing documents; and the grant of exclusive use of common area pursuant to California Civil Code § 4600.

I-3. ***Permissive Application of Rules***. These Election Rules may also apply, but are not required to apply, to any topic that is expressly identified by the Board in the HOA's Operating Rules as being governed by these Election Rules.

I-4 ***Postponement of Election of Directors Possible in 2020 Only***. Because of the time parameters established in SB 323, including the time deadlines and requirements for sending notices and taking required actions prior to an election, the Paseo Del Sol Villas Election of Directors for 2020 may have to be postponed to a month following the regular month in which elections are normally held for the Association. However, the Association will be able to comply with the law and hold its Election in the regular month in which elections are normally held beginning in 2021.

I-5 ***Amendment***. Election Rules may not be amended less than ninety (90) days prior to an election.

Article II

Rules Applicable Only During an Election or Removal of Directors

II-1. *Nomination of Candidates For Election of Directors (Corresponding to STEP ONE in Timeline).*

A. There shall be established a deadline for the submittal of nominees to run in an election to become a Member of the Board. Pursuant to Civil Code § 5115(a), thirty (30) days prior to the deadline, the HOA shall give General Notice of the procedure and deadline for submitting a nomination. Individual Notice shall be delivered pursuant to Civil Code §4040 if individual notice is requested by a Member.

B. A Nominating Committee is to be appointed by the Board prior to each annual meeting of the Members (at which an election of Directors is expected to take place) to serve from the close of such annual meeting until the close of the next annual meeting. The entire board may act as the Nominating Committee so long as those board members up for re-election, if any, are excluded from the Nominating Committee, and no preferential treatment is given to any existing board member during the nominating process. In the alternative, the Nominating Committee shall consist of a Chairperson, who shall be a Member of the Board, and two (2) or more Members of the HOA who are not candidates or related to a candidate. The appointment of the Nominating Committee shall be announced at each annual meeting. If no such Nominating Committee is announced, the Board may appoint a Nominating Committee at any time to act in connection with the next scheduled annual meeting at which an election of Directors is expected to take place.

C. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not fewer than the number of vacancies that are to be filled. Nominations may be made from among the Members *only*. All nominees must meet the qualifications set forth below.

D. Nothing in these Election Rules shall preclude a Member from nominating himself or herself, by submitting his or her name to the Nominating Committee. If the self-referred nominee is not qualified pursuant to these Election Rules, the person shall be referred to the Board for Internal Dispute Resolution or a hearing to determine whether the qualifications may be obtained prior to the time the ballots are distributed, or the nominee may be excluded from the ballot.

E. If title to a separate interest parcel is held by a legal entity that is not a natural person, the governing authority of that legal entity shall have the power to appoint a natural person to be a Member for purposes of being nominated as a candidate.

F. Nominations may also be made from the floor at a meeting of Members, but this is discouraged as causing confusion at the time of the counting of votes.

II-2. *Qualifications and/or Disqualifications of Candidates For Election of Directors.*

A. Directors must be Members of the HOA. This means that a candidate must be disqualified for not being a Member of the HOA at the time of the nomination.

B. A candidate may be disqualified if he or she has been a Member of the HOA for one year or less at the time of the Election.

C. A candidate may be disqualified if his or her election means that they would be serving on the Board at the same time as a person who holds a joint ownership interest in the same separate interest as the candidate. In other words, two or more persons holding a joint ownership interest in the same separate interest may not serve on the Board at the same time.

D. A candidate may be disqualified if the candidate is not current in his or her assessments, excluding nonpayment of fines or fines renamed as assessments, collection charges, late charges, or costs levied by a third party. The candidate may not be disqualified for failure to be current in payment of regular and special assessments if either the person has entered into a payment plan pursuant to Civil Code § 5665, or the person has paid the regular or special assessment under protest pursuant to Civil Code § 5658. Note that Civil Code § 5105(c)(1) states that if an association requires a nominee to be current in the payment of regular and special assessments, it shall also require the existing directors to be current in the payment of regular and special assessments.

E. A candidate may be disqualified if he or she discloses, or the HOA is aware or becomes aware of, a past criminal conviction that would, if the candidate were to be elected, either prevent the HOA from purchasing the fidelity bond coverage required by California Civil Code § 5806 or terminate the HOA's existing fidelity bond coverage.

F. The HOA shall not disqualify a candidate without first holding a hearing upon proper notice and the opportunity to be heard in accordance with the HOA's Internal Dispute Resolution procedures adopted pursuant to Civil Code §§ 5900 *et seq.*

II-3. *Candidate Registration List and Voter List (Corresponding to STEP TWO in Timeline).*

A. Once candidates are identified, a Candidate Registration List shall be prepared, listing the name and separate interest address of all qualifying candidates who will appear on the ballot. A Voter List shall also be prepared, listing for each Member of the HOA the voter's name, voting power, and either (a) the voter's physical address of their separate interest, (b) the parcel number of the separate interest, or (c) both. The voter's mailing address must also be listed if only the parcel number is used.

B. The Inspector(s) of Election should be appointed at this time if not already appointed as set forth in Article III of these rules, below.

C. Thirty (30) days before ballots are distributed, the HOA shall give General Notice to the membership of (a) the date, time, and physical address where ballots are to be returned by mail or handed to the Inspector(s) of Election; (b) the date, time, and location of the meeting at which ballots will be counted; (c) a copy of the Candidate Registration List; and (d) a Voter List of all Members of the HOA eligible to vote. The identity of the Inspector(s) of Election should also be provided at this time, with sufficient contact information also provided to the Members. The recipients of the Candidate Registration List and the Voter List shall have the opportunity to verify the accuracy of their information on both lists. Any reported errors on the Voter List must be corrected by the Inspector(s) of Election within two (2) business days.

II-4. **Cumulative Voting.** The HOA's governing documents allow cumulative voting for election to the Board of Directors as follows:

Section 5. Cumulative Voting. Every Condominium owner entitled to vote at any election for Directors of the Association may cumulate his votes and give one candidate a number of votes equal to the number of Directors to be elected multiplied by the number of votes to which his percentage of interests, as set forth in paragraph F of the said Declaration, are entitled or distribute his votes on the same principle among as many candidates as he thinks fit.

II-5. **Removal of Directors.** The entire membership of the Board may be removed from the Board, with or without cause, by a majority vote of the Members. However, unless the entire Board is removed, an individual director shall not be removed if the number of votes against the resolution for his removal or not consenting in writing to his removal would be sufficient to elect the director if voted cumulatively at an election at which the same total number of votes were cast and the entire number of directors authorized at the time of the most recent election of directors were then being elected.

Article III

Generally Applicable Voting and Election Rules

III-1. **Member Voting Rights.** Each Member has the right to cast one vote per separate interest owned, on each matter submitted to Members for voting, unless cumulative voting shall apply (in the case of an election of Directors). The Voting Power of the HOA is one hundred fifty four (154), representing one vote per separate interest owned in the HOA.

III-2. *Inspector(s) of Election and Helper(s).*

A. Pursuant to Civil Code § 5110(a) & (b), the HOA, through its Board, is required to appoint either one or three Inspector(s) of Election. The Inspector(s) of Election shall be an independent third party or parties which 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. An independent third party may be a Member, but may not be a director or a candidate for director or be related to a director or to a candidate for director. An independent third party may not be a person, business entity, or subdivision of a business entity who is currently employed by or under contract to the HOA for any compensable services other than serving as an Inspector(s) of Election.

B. Pursuant to Civil Code § 5105(a)(6), there may also be appointed by the Board and/or Inspector(s) of Election one or more persons, called "Helper(s)," who are overseen by the Inspector(s) of Election to verify signatures and to count and tabulate votes as may be appropriate, provided that the Helper(s) are also independent third parties.

C. Civil Code § 5110(c) sets forth the duties of Inspector(s) of Election. These duties include the following: (1) determine the number of memberships entitled to vote; (2) determine the authenticity, validity, and effect of proxies, if any; (3) receive ballots at a location to be determined by the Inspector(s) of Election; (4) hear and determine all challenges and questions in any way arising out of or in connection with the right to vote; (5) count and tabulate all votes; (6) determine when the polls shall close, consistent with the governing documents; (7) determine the tabulated results of the election; and (8) perform any acts as may be proper to conduct the election with fairness to all Members in accordance with this the Davis-Stirling Common Interest Development Act, the California Corporations Code, and all applicable rules of the HOA regarding the conduct of the election that are not in conflict with the law. Furthermore, the Inspector(s) of Election and Helper(s) shall perform all duties impartially, in good faith, to the best of the Inspector(s) of Election's ability, as expeditiously as is practical, and in a manner that protects the interests of all Members of the HOA. If there are three Inspectors, the decision or act of a majority shall be effective in all respects as the decision or act of all. Any report made by the Inspector(s) of Election is *prima facie* evidence of the facts stated in the report.

D. The Board of Directors may remove and replace any Inspector of Election prior to the tabulation of votes if an Inspector resigns or if the Board reasonably determines that an Inspector will not be able to perform his or her duties impartially, in good faith, and in a manner that protects the interests of all Members of the HOA.

III-3. *Two-Envelope Secret Ballot Packages (Corresponding to STEP THREE in Timeline).*

A. The two-envelope method of distribution and return of written ballots shall be used as specified in Civil Code § 5115. Ballots and two pre-addressed envelopes with instructions on how to return ballots shall be mailed by first-class mail or delivered by the HOA to every Member not less than thirty (30) days prior to the deadline for voting (which shall be set by the Inspector(s) of Election). In order to preserve confidentiality, a voter may not be identified by name, address, or lot, parcel, or unit number on the ballot. The HOA shall use as a model those procedures used by California counties for ensuring confidentiality of vote by mail ballots, including all of the following:

B. The ballot itself is not signed by the voter, but is inserted into an envelope that is sealed. This envelope is inserted into a second envelope that is sealed. In the upper left hand corner of the second envelope, the voter shall sign the voter's name, indicate in legible printing or pre-printed form the voter's name, and indicate the address or other separate interest identifier (e.g., lot or unit number) that entitles the voter to vote.

C. The second envelope is addressed to the Inspector(s) of Election or designated Helper(s) who will be collecting and tallying the envelopes for purposes of establishing a quorum. The envelope may be mailed or delivered by hand to a location specified by HOA. The Member may request a receipt for delivery.

D. Each ballot submitted in a second envelope as specified and received by the Inspector(s) of Election shall be treated as a Member present at a meeting for purposes of establishing a quorum, as required in the following provision.

III-4. *Balloting and Delivery Requirements.*

A. Every Member is entitled to receive a ballot. Civil Code § 5105(g)(1) prohibits the denial of a ballot to a Member for any reason other than not being a member at the time when ballots are distributed.

B. Civil Code § 5105(g)(2) prohibits the denial of a ballot to a person with general power of attorney for a Member.

C. Civil Code § 5105(g)(3) requires the ballot of a person with general power of attorney for a Member to be counted if returned in a timely manner.

D. Civil Code § 5105(g)(4) requires the Inspector(s) of Election to deliver, or cause to be delivered, at least thirty (30) days before an election, to each Member both of the following documents: (a) the ballot or ballots; and (b) a copy of the Election Rules. Delivery of the Election Rules may be accomplished by either (i) posting the Election Rules to an 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 (ii) Individual Delivery.

III-5. *Voting Power and Quorum Requirement.* According to the HOA’s Bylaws, paragraph 3.04, the presence at the meeting of Members entitled to cast, or of proxies entitled to cast, a majority of the total voting power of Members shall constitute a quorum for any action except as otherwise provided in the Articles, the Declaration or the Bylaws. If, however, a quorum is not present or represented at any meeting, the Members present in person or by proxy may not transact business but shall have the power to adjourn the meeting without notice other than announcement at the meeting, until a quorum shall be present or represented or, unless otherwise provided by law, may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days following the time the original meeting was called, at which meeting the quorum requirement shall be one-third (1/3) of the total voting power of Members. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings. The members present may continue to do business until adjournment notwithstanding the withdrawal of enough Members to leave less than a quorum; provided that at least twenty-five (25%) percent of the total voting power of the Association remains present in person and/or by proxy, and provided further that any action taken shall be approved by at least a majority of the members required to constitute a quorum.

III-6. *No Revocation of Delivered Ballot.* Written ballots may not be revoked once they are submitted to the Inspector(s) of Election or Helper(s) duly designated to receive the ballots. Once written ballots are deposited in the U.S. mail to the addressee of the second envelope containing the ballot, they are considered non-revocable.

III-7. *Replacement Ballot.* If an owner loses his or her ballot prior to the meeting at which the votes are to be tabulated, the owner may request another ballot, along with the appropriate envelopes from the Inspector(s) of Election or Helper(s) after complying with any requirement established for confirming that the original ballot was either lost, destroyed or never received. The Inspector(s) of Election or Helper(s) shall maintain a record of each request and, if it is determined that the owner voted twice, even by mistake, neither ballot shall be counted.

III-8. *Waiver of Secrecy.* An owner who signs or otherwise marks his or her ballot with an identifying mark waives his or her right to secrecy of the ballot afforded under the Civil Code. The HOA is not responsible for removing or redacting personal information that is added to the ballots by the owner. Identifying marks on the ballot do not disqualify the ballot, however.

III-9. *Voting Period for Elections: Opening and Closing of Polls.* The polls open when the ballots are sent to the Members and will close one-half hour after commencement of the Election Meeting or any meeting occurring upon the adjournment thereof, or upon the announcement prior to or at the Election Meeting of a poll closing time for final collection of ballots for counting, whichever occurs first.

III-10 *Counting ballots.* Pursuant to Civil Code § 5120, all votes shall be counted and tabulated by the Inspector or Inspector(s) of Election, or Helper(s), in public at a properly noticed open meeting of the Board or Members. Any candidate or other Member of the HOA may witness the counting and tabulation of the votes. No person, including a Member of the HOA, lawyer, or 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(s) of Election or Helper(s) may verify the Member's information and signature on the second envelope prior to the meeting at which ballots are tabulated and count the number of valid ballot packages to establish a quorum.

III-11. *Deemed Tabulation.* Following the closing of the polls, if the number of nominees is equal to or fewer than the number of positions open for the Board of Directors, the vote count is to be waived and the Inspector(s) of Election and/or Helper(s) will not be required to tabulate the votes. All nominees will be deemed elected to serve on the Board of Directors.

III-12. *Reporting of Tabulated Results to Membership.* Pursuant to Civil Code § 5120, the tabulated results of the election shall be promptly reported to the Board and shall be recorded in the minutes of the next meeting of the Board and shall be available for review by Members of the HOA. Within fifteen (15) days of the election, the Board shall give General Notice pursuant to Civil Code § 4045 of the tabulated results of the election.

III-13. *Election Materials Retention.* The sealed ballots, signed voter envelopes, voter list, proxies, and candidate registration list shall at all times be in the custody of the Inspector(s) of Election or at a location designated by the Inspector(s) of Election until after the tabulation of the vote, and until the time allowed by Civil Code § 5145 for challenging the election has expired, at which time custody shall be transferred to the HOA. If there is a recount or other challenge to the election process, the Inspector(s) of Election shall, upon written request, make the ballots available for inspection and review by an HOA Member or the Member's authorized representative. Any recount shall be conducted in a manner that preserves the confidentiality of the vote. Note that "association election materials" has been redefined under Civil Code § 5200 to include the returned ballots, signed voter envelopes, the Voter List, the list of voters to whom ballots were to be sent, proxies, and the Candidate Registration List. These items (excepting the ballots) should be retained by the HOA and/or the Inspector(s) of Election so that the HOA may comply with Civil Code § 5200 if called upon to do so.

III-14. *Voting By Mail.* Except for the meeting to count the votes required by Civil Code § 5120 (a), voting may be conducted entirely by mail unless otherwise specified in the governing documents.

III-15. *Voting on Amendments to Governing Documents.* In an election to approve an amendment of the governing documents, the text of the proposed amendment shall be delivered to the Members with the ballot.

Article IV

Proxies

IV-1. *Voting by Proxy is Permitted But Discouraged.* Members entitled to vote may assign their right to vote to another Member by way of a written document called a “proxy.” This practice is discouraged, in that it is as easy and effective for a Member to vote by giving his sealed and signed second envelope to anyone to deposit in the mail or hand deliver to the addressee, rather than use the proxy procedure (which can be difficult to implement).

IV-2. *Proxy Form, Validity, Authenticity, and Effect.*

A. To ensure secret voting, all proxies must have voting directions which are detachable from the identification and signature of the Member giving the proxy. The original proxy shall be submitted with the ballot for verification purposes; all identifying material will be returned by the Inspector(s) of Election to the proxy-holder at the Election Meeting or prior to it. A proxy is not a ballot. The proxy-holder must vote by a secret ballot using the two-envelope method described in Article III, above. Proxies should be filled out and signed in blue ink to help ensure authenticity. In addition to the foregoing, proxies must comply with California law in order to be valid, and may be revoked by the Member who gave the proxy any time prior to the receipt of the ballot by the Inspector(s) of Election or designated Helper(s).

B. Neither the HOA nor the Inspector(s) of Election is required to provide a proxy form to a Member or the Members at any time, including with the ballots. The HOA Board may decide whether or not to have proxies made available upon request by a Member.

Article V

Access to HOA Media and Common Area Meeting Space

V-1. *Open Access to Media.* Pursuant to Civil Code § 5105, the HOA shall provide access to any candidate or Member advocating a point of view to HOA media, newsletters, or Internet Web sites during a campaign, for purposes that are reasonably related to that election. Equal access shall be provided to all candidates and Members advocating a point of view, including those not endorsed by the Board, for purposes that are reasonably related to the election. The HOA shall not edit or redact any content from these communications, but may include a statement specifying that the candidate or Member, and not the HOA, is responsible for that content.

V-2. *Open Access to Common Area Meeting Space.* Also pursuant to Civil Code § 5105, the HOA shall provide access to the common area meeting space, if any exists, during a campaign, at no cost, to all candidates, including those who are not incumbents, and to all Members advocating a point of view, including those not endorsed by the Board, for purposes reasonably related to the election.

Article VI

Rules Governing Campaigning

VI-1. *No Use of HOA Funds.* HOA funds shall not be used for campaign purposes in connection with any election of Board Members or removal of Board Members, as specified by Civil Code § 5135. Also as specified by § 5135, funds of the HOA shall not be used for campaign purposes in connection with any other HOA election except to the extent necessary to comply with duties of the HOA imposed by law.

VI-2. *Statutory Definition of Campaign Purposes.* “Campaign purposes” is defined by Civil Code § 5135 to include, but not be limited to, the following: (1) expressly advocating the election or defeat of any candidate that is on the HOA election ballot; (2) including the photograph or prominently featuring the name of any candidate on a communication from the HOA or its Board, excepting the ballot, ballot materials, or a communication that is legally required, within thirty (30) days of an election (in other words, such activity is not a campaign purpose if the communication is one for which Civil Code § 5105(a) requires that equal access be provided to another candidate or advocate).

NEW ELECTION RULES TIMELINE – ELECTION OF DIRECTORS

Statutory Time Parameters	Use to Establish Actual Dates
<p>STEP ONE Establish deadline to submit nomination of Candidates for a Directorship. Thirty (30) days prior to the deadline –</p> <ul style="list-style-type: none"> •Give general notice of procedures and deadline for submitting a nomination for a Directorship (i.e., Seat on the Board). <p><i>§5115(a)</i></p>	<ul style="list-style-type: none"> •Date to Send Solicitation of Candidates: _____ •Deadline for Response to Solicitation (at least 30-days later): _____
<p>NOTE: It is recommended that the HOA appoint its Inspector(s) of Election during this time period so that Inspector(s) are lined up for sending ballots, attending election, and verifying the Voter List as set forth in Step Two, below.</p> <p>•Recommended Deadline to Appoint Inspectors: _____</p>	
<p>STEP TWO Once Candidates are identified, and thirty (30) days before Ballots are distributed, give membership general notice of –</p> <ul style="list-style-type: none"> •Date, time and physical address where ballots are to be returned by mail or handed to inspector of elections. •Date, time, and location of the meeting at which ballots will be counted. •List of all candidates who will appear on the ballot (“Candidate Registration List”). •Prepare the Candidate Registration List and a Voter List, and allow members to verify the accuracy of their information on both lists. (§5105(a)(7)). Any reported errors on the voter list must be corrected by the Inspector of Election within two (2) business days. <p><i>§5115(b)</i></p>	<ul style="list-style-type: none"> •Put together Candidate List and Voter List, and other specified information, as set forth at left. •Date to Send to Membership the Candidate List, Voter List, and Other Specified Information: _____ •Deadline for Response, if any, to Correct Lists (at least 30-days later): _____ <p>Reminder: Any reported errors must be corrected by the Inspector(s) of Elections within (2) business days.</p>
<p>STEP THREE Thirty (30) days before Election, the Inspector of Election must cause to be delivered –</p> <ul style="list-style-type: none"> •The ballot(s). •A copy of the election operating rules. Note: Election operating rules may also be delivered by posting them on internet website and providing Members the website on the ballot together with the phrase, in at least 12-point font: “The rules governing this election may be found here: _____” <p><i>§5105(g)(4)</i></p>	<ul style="list-style-type: none"> •Establish Election Date and insert below. •Send Ballot(s) and Copy of Election Operating Rules (30-days after Notice, above, and 30-days prior to Election Date): _____
<p>STEP FOUR Hold the Election utilizing volunteer Members or an Inspector of Elections company (cannot use management company, accountants, or attorneys).</p> <p><i>§5110(d)</i></p>	<ul style="list-style-type: none"> •Date of Election: _____ •Date Election Results sent to membership: _____

Important: An election cannot be held less than 90 Days before the Election Rules are amended. *§ 5105(h)*

**SUMMARY OF CHANGES ENACTED BY SB 323 RE: ELECTION RULES
OTHER THAN AS SET FORTH IN TIMELINE**

Provisions regarding the Association's ability to qualify or disqualify a candidate for the Board

① An Association's Bylaws *or* Election Operating Rules may only disqualify a candidate for the following reasons:

- The candidate, if elected, would be serving on a Board at the same time as another person who holds a joint ownership interest in the same separate interest as the candidate and the other person is also a candidate for the current election or an incumbent director.

- The candidate has been a Member of the Association for less than one (1) year.

- The candidate discloses, or the association is aware or becomes aware of, a past criminal conviction that would, if the candidate was elected, either prevent the association from purchasing the fidelity bond coverage required by California Civil Code § 5806 or terminate the association's existing fidelity bond coverage.

- The candidate is not current in payment of *principal* regular and special assessments (i.e., delinquency which does not include nonpayment of fines, fines renamed as assessments, collection charges, late charges, or costs levied by a third party). Note: if an Association requires a candidate be current in their payments, then it must also require a director be current in their payments. The candidate may not be disqualified for failure to be current in payment of regular and special assessments if either the person has entered into a payment plan pursuant to Civil Code § 5665, or the person has paid the regular or special assessment under protest pursuant to Civil Code § 5658.

② A candidate *must* be disqualified for not being a Member of the Association at the time of the nomination.

③ An association shall not disqualify a person from candidacy if the person has not been provided the opportunity to engage in internal dispute resolution (i.e., "IDR.")

Other requirements to be included in the Election Rules

④ If title to a separate interest parcel is held by a legal entity that is not a natural person, the governing authority of that legal entity shall have the power to appoint a natural person to be a Member for purposes of being nominated as a candidate.

⑤ The Election Operating Rules *must* include these prohibitions and/or requirements:

- A prohibition on denying a ballot to a Member for any reason other than not being a Member at the time when ballots are distributed.

- A prohibition on denying a ballot to a person with general power of attorney for a Member.

- A requirement the inspector or inspectors of elections deliver, or cause to be delivered, at least 30 days before an election, to each Member (a) the ballot and (b) a copy of the election rules. Delivery of the election rules may be accomplished by posting the election rules to an 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 by Individual delivery.

- The inspector of elections may not be a person, business entity, or subdivision of a business entity that is employed or under contract to the association for any compensable services – i.e., the manager or management company and/or attorney may no longer serve as inspector.

Provisions regarding Association Records related to Elections

⑥ Membership lists subject to inspection by Members now include Members’ email addresses.

⑦ “Association election materials” has been added to the definition of association records (in Civil Code § 5200) which must be retained by the Association. These materials include the returned ballots, signed voter envelopes (signed voter envelopes may be inspected but may not be copied), the voter list, voters to whom ballots were to be sent, proxies, and the candidate registration list.

⑧ The voter list must include the voter’s name, voting power, and either (a) the voter’s physical address of their separate interest, (b) the parcel number, or (c) both. The voter’s mailing address must also be listed if only the parcel number is used.

⑨ An election for the board of directors *must* be held at the end of each director’s expiring term and at minimum every four years.

IF NEEDED: Election by Acclamation applicable to associations of 6,000 units or more
(Will not apply to most associations)

When the number of director candidates at the close of the nomination period is not more than the number of vacant director positions on the board, the director candidates may be considered elected by acclamation if all of the following is true:

The Association includes 6,000 or more units.

The Association provided individual notice of the election and the procedure for nominating candidates at least 30 days before the close of nominations.

The Association permits all candidates to run if nominated, except those disqualified for not being a Member of the Association at the time of the nomination and those disqualified for other reasons specified in Civil Code Section 5100.