



## **GRAEAGLE MEADOWS HOMEOWNERS' ASSOCIATION** **ELECTION RULES AND PROCEDURES**

Pursuant to California Civil Code section 1363.03, the Association adopts the following rules that govern election procedures and related issues.

As set forth in Cal. Civil Code section 1363.03(b), and any revisions thereto, notwithstanding any other law or provisions of the Graeagle Meadows Homeowners' Association ("GMHOA") Restated Declaration of Covenants, Conditions and Restrictions dated April 30, 1992, and any amendments thereto ("CC&Rs") or the GMHOA Restated Bylaws dated April 30, 1992 ("Bylaws"), (collectively referred to herein as the "Governing Documents"), elections regarding assessments legally requiring a vote, election and removal of members of the Association Board of Directors, amendments to the Governing Documents, or the grant of exclusive use of Common Area property per section 1363.07 shall be held by secret written ballot in accordance with the procedures set forth in these Rules.

The election of Directors is to occur at the Annual Member Meeting to be held and noticed each calendar year at a place, date and time fixed by the Board, per Article 2, Section 1, of the Bylaws. The members may also vote on other matters and transact such other business of the Association as may properly come before them.

In the event of any conflict between the Governing Documents and the provisions of these Rules, these Rules shall control. In the event of any conflict between these Rules and the provisions of Cal. Civil Code section 1363.03 and 1363.04, the provisions of those sections, and any revisions thereto, shall control.

### **Annual Meeting Procedures**

1. Quorum. Except as otherwise provided in the Bylaws, the presence in person or by proxy of members holding fifty-one percent (51%) of the votes in accordance with Article 2, Section 5 of the Bylaws, shall constitute a quorum. Except as otherwise required by applicable law, or the Governing Documents, the vote of the members holding a majority of a quorum of the members present in person or by proxy shall be effective for action to be taken by the membership.

2. Adjourned Meetings. If any meeting cannot be organized because a quorum has not attended, the members may not transact any business, but may adjourn the meeting to another time as set forth at Article 2, Section 7 of the Bylaws.

3. Action Without Membership Meeting. Any action which may be taken at any annual or special meeting of members, except the election of directors where cumulative voting is required, may be taken without a meeting if the Association distributes a written ballot to every member entitled to vote on the matter pursuant to Article 2, Section 9 of the Bylaws, and the procedures set forth in these Rules, if applicable to the particular matter to be voted on.

### **Election Campaigning:**

4. If any candidate or member advocating a point of view is provided access to association media, newsletters, or Internet Web sites during a campaign, for purposes that are reasonably related to that election, equal access shall be provided to all candidates and members advocating a point of view, including those not endorsed by the Board, for purposes that are reasonably

related to the election. The Association shall not edit or redact any content from these communications, but may include a statement specifying that the candidate or member, and not the Association, is responsible for that content.

5. All candidates shall have access to any common area meeting space during a campaign, at no cost, 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.

6. The posting of campaign signs must be in compliance with current Association Rules and state law. In no event shall campaign signs be permitted to be erected or maintained within any portion of the Association Common Areas.

### **Campaign Funds**

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

8. For the purposes of these Rules "campaign purposes" include, but are not limited to, the following:

- (a) Expressly advocating the election or defeat of any candidate that is on the Association election ballot.
- (b) Including the photograph or prominently featuring the name of any candidate on a communication from the Association or its Board, excepting the ballot and ballot materials, within 30 days of an election, provided that this is not a campaign purpose if the communication is one for which these Rules require that equal access be provided to another candidate or advocate.

### **Candidate Qualifications**

9. The qualifications for candidates for the Board of Directors are that they must be members of the Association and in good standing. "Good standing" generally means that the candidate's lot/unit is current on all assessments and no membership privileges have been suspended.

Any qualified member of the Association may nominate himself or herself for election to the Board of Directors.

### **Voter Qualifications**

10. The qualifications for voting, the voting power of the members, the authenticity, validity, and effect of proxies, are set forth in the CC&Rs at Article 4, Sections 5 through 9, and the Bylaws at Article 2, Sections 8 through 12, and Article 4, Sections 2 and 3. Directors are elected pursuant to said Bylaws, at the Annual Members Meeting which is held each year at a specific date and time determined by the Board.

11. Each member of the Association in good standing is entitled to cast one vote for each

lot that the member owns. When more than one person or entity owns a Lot, all such co-owners must agree among themselves and are entitled to one vote per lot. No vote for a lot shall be cast on a fractional basis. If the co-owners of a lot are unable to agree among themselves as to how their vote shall be cast, they shall forfeit the vote on the matter in question.

12. Members must be in good standing to be eligible to vote, which generally means all assessment obligations are paid current, and there are no disciplinary actions duly imposed by the Association by which voting privileges have been suspended. Membership voting rights are appurtenant to the ownership of a particular lot or lots. If a member is delinquent in the payment of assessments as to any particular lot owned, that member, or all members where there are multiple owners of a lot, can be denied voting rights as to the lot where the assessment obligations are delinquent.

### **Written Ballots/Proxies**

13. The Association may use and accept proxies as permitted by law and the Association's Governing Documents provided that the Association shall not be required to prepare or distribute proxies. Proxies shall not be interpreted to be ballots, and shall not be used in lieu of a ballot at a meeting.

14. Any instruction given in a proxy issued for an election that directs the manner in which the proxy holder is to cast the vote shall be set forth on a separate page of the proxy that can be detached and given to the proxy holder to retain. The proxy holder shall cast the member's vote by secret ballot unless the proxy is revoked by the member prior to the noticed time for commencement of the Annual Meeting.

15. Unless otherwise directed by the Board in the written instructions provided to all voting members before each directors election, members may return written ballots or proxies by mail at any time during the 30 days preceding the directors election, up to and including the day before the election/meeting. Because state law requires the Association to utilize a double envelope ballot system in the election of directors, any ballots that are sent to the Election Inspector by facsimile transmission or email will not be counted. Unless otherwise directed by the Board in the written instructions for each members meeting, members may arrange for personal delivery of written ballots or proxies to the Election Inspector on the day of the election, prior to the noticed time for commencement of the meeting. The directors election will occur promptly after commencement of the members meeting.

16. The Directors candidates receiving the highest number of votes, up to the number of vacancies to be filled in the election, shall be elected as Directors and shall take office immediately following their election. In the event there is a tie vote between those candidates who receive the lowest number of votes necessary to qualify the candidate for election, the tie shall be broken by random drawing.

### **Election Inspectors**

17. The Board of Directors shall appoint one "independent third party" as the Inspector of Election (Election Inspector) for all elections regarding assessments, selection of members of the Board of Directors, amendments to the Governing Documents, or the grant of exclusive use of common area property pursuant to Civil Code Section 1363.07. The Election Inspector shall be appointed by the Board at least ten (10) days prior to any such election. All elections on matters

governed by these Rules shall be held by secret ballot in accordance with the procedures set forth herein.

18. Pursuant to Civil Code section 1363.03(c), an "independent third party" includes, but is not limited to, a volunteer poll worker with the county registrar of voters, a licensee of the California Board of Accountancy, or a notary public. An independent third party may also be a member of the Association, but may not be a member of the Board of Directors or a candidate for the Board of Directors or related to a member of the Board of Directors or a candidate for the Board of Directors. An independent third party may be a person who is currently employed or under contract with the Association for compensable services.

The Board may therefore appoint as the Election Inspector, any party that in its judgment, qualifies as an "independent third party" as defined above, including but not limited to, the following specific parties:

An independent executive or recording secretary and/or bookkeeper retained by the Association, if any, an independent member of the Association as described above, an owner, manager, officer, or other responsible employee of any management company retained by the Association, and a CPA or other employee of the certified public accountant firm retained by the Association. If a member of the Association is appointed as the Election Inspector, the Association will appoint the member/Election Inspector to an appropriate committee, or otherwise take steps to confirm directors and officers insurance coverage for the member/Election Inspector.

19. An Election Inspector shall perform his or her duties impartially, in good faith, to the best of his or her ability, and as expeditiously as is practical. Any report made by the Election Inspector is prima facie evidence of the facts stated in the report.

20. The Election Inspector shall do all of the following:

- (a) Determine the number of memberships entitled to vote and the voting power of each.
- (b) Determine the authenticity, validity, and effect of proxies, if any.
- (c) Receive and maintain custody of ballots.
- (d) Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.
- (e) Count and tabulate all votes.
- (f) Determine when the polls shall close.
- (g) Determine the result of the election.
- (h) Perform any acts as may be proper to conduct the election with fairness to all members in accordance with this section and all applicable rules of the

Association regarding the conduct of the election that are not in conflict with this section, including but not limited to determining whether or not a voice vote by acclamation is appropriate for an uncontested election, as provided below.

### **Voting Procedures**

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

- (a) The ballot itself is not signed by the voter, but is inserted into an envelope that is sealed. This envelope is inserted into a second envelope that is sealed. In the upper left hand corner of the second envelope, the voter prints and signs his or her name, address, and lot, or parcel, or unit number that entitles him or her to vote.
- (b) The second envelope is addressed to the Election Inspector who will be tallying the votes. The envelope may be mailed or delivered by hand to a location specified by the Election Inspector. The member may request a receipt for delivery.
- (c) Each ballot timely received by the Association's duly appointed Election Inspector by mail or personal delivery shall be treated as a member present at the meeting for purposes of establishing a quorum.
- (d) Once a secret ballot has been received by the Election Inspector, it shall be irrevocable. For purposes of this provision, the Election Inspector shall be deemed to have "received" a member's ballot as of the noticed time for commencement of the Annual Meeting. Members who have submitted their ballot by mail prior to that time, but appear and request a replacement ballot from the Election Inspector prior to the time noticed for commencement of the meeting, shall be given a replacement ballot and the previously mailed ballot destroyed by the Election Inspector. No person, including a members of the Association or an employee of the management company, shall open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated.
- (e) Because of the required 'double-envelope ballot system' any ballots that are sent to the Election Inspector by any means other than mail or personal delivery, including but not limited to facsimile, email, or other electronic transmission, will not be counted, except for purposes of establishing a quorum.

22. Except for an uncontested election as set forth below, all votes shall be counted and tabulated by the Election Inspector in public at a properly noticed open meeting of the Board of Directors or members. Any candidate or other member may witness the counting and tabulation of the votes. No person, including a member of or an employee of the management company, shall open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated.

- (a) If the election for any or all Directors' positions is uncontested, the Election Inspector, in his/her discretion, may dispense with the formal opening and counting of the written ballots and conduct the vote for the uncontested position or positions by voice vote or acclamation so long as the members present and voting at the meeting exceeds the number of written ballots submitted to the Election Inspector, and there is no objection to the voice vote by any member. If any member makes an objection to the Election Inspector prior to any vote by voice or acclamation, the vote must be carried out by secret ballot as otherwise required by these rules. If there is an uncontested voice vote, all written ballots received by the Election Inspector must be stored for one year as required below, and the number of persons present and voting by voice shall be recorded to ensure that the number of persons voting by voice/acclamation exceeds the number of written absentee ballots in the event a recount is requested.

23. The results of the election shall be promptly reported to the Board of Directors of the Association and shall be recorded in the minutes of the next meeting of the Board of Directors and shall be available for review by members of the Association. Within 15 days of the election, the Board shall publicize the results of the election in a communication directed to all members.

24. The sealed ballots at all times shall be in the custody of the Election Inspector or at a location designated by the Inspector until after the tabulation of the vote, at which time custody shall be transferred to the Association.

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

### **General Provisions**

26. These Rules may be amended by a majority vote of the Board of Directors, in compliance with the notice to member and other requirements of Civil Code section 1357.100 et seq.

27. The Association shall develop ballot and proxy forms, and letter(s) of instructions that shall be provided to the members that are consistent with the requirements of these Rules. However, the ballot and proxy forms and letters of instruction(s) themselves shall not be considered "Rules" within the meaning of Civil Code Section 1357.100 et seq., so that they may be modified as experience may justify without following the Notice to Member and other requirements of Civil Code Section 1357.100 et seq. Such modifications must be consistent with these Rules and the governing law.

### **Certificate of Secretary**

The undersigned Secretary of the Graeagle Meadows Homeowners' Association, a

California nonprofit mutual benefit corporation, hereby certifies that the foregoing Election Rules and Procedures was duly approved by the affirmative vote of a majority of the Board of Directors present at the Board Meeting held on August 20, 2007, that a quorum was present at such meeting, and that such approval was made in compliance with the member notice and other requirements of Civil Code section 1357.100 et. seq.

Dated: 8/22/07

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Jennifer Baker, Secretary

GRAEAGLE/ELECTION RULES/08-21-07-ELECTION RULES & PROCEDURES