

**CHARLESTON ESTATES HOMEOWNERS ASSOCIATION**  
**ELECTION AND BALLOTING PROCEDURES**

The Davis-Stirling Common Interest Development Act requires community associations, such as CHARLESTON ESTATES HOMEOWNERS ASSOCIATION (the "Association"), to adopt rules regarding the procedures that the Association will use in the conduct of elections and the qualifications for being a nominee for election to the Board of Directors (collectively these "Election Rules").

1. Introduction. In compliance with these requirements of the Davis-Stirling Common Interest Development Act (California Civil Code section 4000 et seq; the "Act"), the following Election Rules have been adopted by your Board of Directors and will be used for the annual election of directors of CHARLESTON ESTATES HOMEOWNERS ASSOCIATION, as well as other votes conducted by the Association that are subject to the secret ballot voting rules under the Act. Civil Code section 5105(h) provides that existing Election Rules cannot be amended at any time within 90 days prior to the date of a scheduled election.

2. General Election Rules Requirements. In accordance with Civil Code section 5105(a), the Association is required to adopt operating rules for the conduct of elections that do all of the following:

(a) *Prohibition on the Use of Association Funds in Elections.* Civil Code section 5135 provides that Association funds cannot be used for campaign purposes in connection with any Association Board election and Association funds may only be used in connection with other Association elections if necessary to comply with the duties of the Association imposed by law.

(b) *Secret Ballot Voting Procedure.* Civil Code section 5200(a) now requires that practically all significant actions and approvals requiring a vote of the Members be conducted by use of a secret mailed ballot in accordance with the procedures set forth in Civil Code sections 5110, 5115, 5120, and 5125. These secret ballot voting rules apply to these director elections and to several other important matters that require the prior approval of the Association's Members:

- (i) The election of directors;
- (ii) Member votes to remove one or more directors from office;
- (iii) Votes to approve increases in Regular Assessment or to approve Special Assessments when Member approval is required under Civil Code section 5605(b);
- (iv) Any vote to amend the Governing Documents; and

(v) Any vote to grant exclusive use of common areas to a particular Member or Members (when the Exclusive Use Common Area was not created by the original Governing Documents). The procedures that must be followed to properly conduct a Member vote by use of a mailed secret ballot vote are set forth herein, below.

3. Qualifications for Candidates. Association Election Rules must state the qualifications for individuals who wish to be candidates for election to the Board and procedures for the nomination of candidates, consistent with the Governing Documents and the Act. The Act permits only the following qualifications to be imposed on persons who desire to declare their candidacy for election to the Board:

(a) Members have the right to self-nominate themselves, as an alternative to being selected or recruited by the Association;

(b) A person is disqualified from nomination as a candidate if that person is not a Member at the time of nomination;

(c) If title to a separate interest is held by a corporation, limited liability company, partnership, or other similar entity, rather than an individual, the governing body of the entity can appoint a natural person to be a member and a candidate. If title is held by a trust, the trustee/co-trustees shall be deemed to be the member and a candidate

(d) The Act provides that owner associations may require a nominee for election to the Board (and also for continued service as a director) to be current in the payment of Regular and Special Assessments. That is the policy of this Association. If an announced candidate has paid his or her regular assessment or special assessment under protest, or the nominee is participating in a Board-approved payment plan to retire delinquent assessments that person is an eligible nominee. However, if the candidate is delinquent with his or her payment plan, the candidate shall not be eligible.

(e) The Act provides that a person may be disqualified as a candidate if that person would be serving on the Board at the same time as another person who holds a joint ownership interest in the same Lot/Unit. It is the policy of this Association to adhere to this rule and the rule is interpreted to also include the prohibition of two spouses or same sex partners from serving on the Board at the same time.

(f) A nominee is disqualified if that person has been an Association Member for less than a year.

(g) The Act says that an Association may disqualify any nominee if that person discloses, or if the Association is aware or becomes aware of, a past criminal conviction that would either prevent the Association from purchasing the insurance coverage required by the Act should the person be elected or terminate the Association's existing insurance coverage

required by the Act as to that person should the person be elected. That shall be the policy of the Association.

(h) Finally, because of the difficulties associated with the mailed secret ballot voting process it is not the policy of this Association to prepare the ballot form in a manner that includes a space for write-in candidates. As such, nominations from the floor are not allowed.

4. Voting Rights of Members. The Act requires association Election Rules to do all of the following:

(a) No Member may be denied a ballot for any reason other than not being a Member at the time that ballots are distributed in an election;

(b) If a Member has issued a general power of attorney to another person to represent the Member for purposes of voting in an election, the holder of the power of attorney cannot be denied a ballot, although the Association is entitled to receive a copy of the power of attorney, and the power of attorney must comply with any requirements imposed by the Inspector of Elections.

(c) The Election Rules must require the Inspector or Inspectors of Elections to deliver, or cause to be delivered, to each Member the following documents at least 30 days prior to the date of the election:

(i) the ballot or ballots. 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;

(ii) a copy of these Election Rules (which may be posted on the Association's website or sent by some form of Individual Delivery. If posted the Website must say: "Election Rules may be found here.").

5. The Requirements for Conducting a Vote by Secret Mailed Ballot. Use of Secret Ballots and Ballot Completion Requirements. The secret ballot voting procedures set forth in Civil Code section 5115 require associations to conduct a vote by mailed secret ballot in accordance with the subparagraphs below:

(a) *Notice of the Procedures and Deadlines for Submitting a Nomination for Election to the Board.* Owner Associations must provide general notice to all Members of the procedures and the deadline for submitting a nomination for election to the Board at least 30 days before the stated deadline for submitting a nomination. Any Member who has requested to receive this information by some form of Individual Delivery is entitled to notice in that fashion.

(b) *Notice to All Members of Election and Balloting Requirements Prior to the Distribution of Ballots.* Civil Code section 5115(b) provides that owner associations must provide, by some form of General Notice, all of the following to Members at least 30 days before the ballots are distributed:

(i) The date and time by which, and the physical address where, ballots are to be returned by mail or handed to the inspector or Inspectors of Elections appointed by the Board of Directors;

(ii) The date, time, and location of the meeting at which ballots will be counted.

(iii) The list of all candidates' names that will appear on the ballot. If a particular Member requests that this voting information be provided to that Member by Individual Notice, then some form of individual notice must be used.

(c) *Description of the Secret Balloting Distribution Process.* Civil Code section 5115(c) sets forth these rules and procedures for the distribution and return of the secret ballots in those elections or Member votes where the secret ballot voting process is mandated:

(i) Ballots and two pre-addressed envelopes with instructions on how to return ballots shall be mailed by first-class mail or delivered by the Association to every Member not less than 30 days prior to the deadline for voting.

(ii) In order to preserve confidentiality, a voter may not be identified by name, address, or lot number on the ballot. The Association shall use as a model those procedures used by California counties for ensuring confidentiality of vote by mail ballots.

(iii) The ballot itself shall not be signed by the voter. Instead, the ballot shall be inserted into an envelope (the "Ballot Envelope") that is sealed and that sealed envelope shall then be 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 the voter's name, and indicate the address or other identifier of the Member's Lot that entitles the voter to vote.

(iv) The second envelope (the "Return Envelope") that is provided to Members in the balloting materials is slightly larger than the Ballot Envelope and must be addressed to the Inspector or Inspectors of Elections, who will be tallying the votes.

(v) The Ballot Envelope is inserted in the Return Envelope which is then mailed or delivered by hand to a location specified by the Inspector or Inspectors of Elections.

(vi) The Member may request a receipt for delivery of the Return Envelope.

(vii) If Members are unable to return their ballot due to an illness or other physical disability, they may designate another person (who must be a spouse, child, parent, grandchild, brother, or sister, or a person residing in that household) to return the ballot for them. The Member must notify the Inspector of Election in writing and in advance of the third-party delivery and the designated person.

(viii) No candidate or representative of a candidate, and no proponent, opponent, or representative of a proponent or opponent, of an initiative, referendum, or recall measure, or of a charter amendment, shall solicit the vote of an absentee voter, or do any electioneering, while in the residence or in the immediate presence of the voter, and during the time he or she knows the absentee voter is voting.

(ix) Members campaigning for or against special assessments, election of directors, removal of directors, etc. cannot induce Members to divert ballots away from the Inspectors of Election.

(x) Quorum is required pursuant to the Governing Documents, and each ballot received by the Inspector(s) of Elections shall be treated as a Member present at a meeting for purposes of establishing a quorum. Pursuant to the Act and notwithstanding any quorum requirements imposed by the Association's Bylaws, the Association shall be permitted at its option to a reduced quorum of 20% for purposes of Association meetings to elect directors. In order to trigger such reduced quorum, the Association must provide the following language in its general notice required by Civil Code Section 5115(b): "The board of directors may call a subsequent meeting at least Twenty (20) days after a scheduled election if the required quorum is not reached, at which time the quorum of the membership to elect directors will be 20 percent of the association's members voting in person, by proxy, or by secret ballot." This applies only to membership meetings to elect directors. The reduced quorum does not apply in the case of a special membership meeting to remove directors.

(xi) Cumulative voting shall be permitted in the election of directors in accordance with the Association Bylaws and CC&Rs.

(xii) Except for the meeting that is required by Civil Code section 5120(a) to count the votes an election utilizing these secret ballot procedures may be conducted entirely by mail unless otherwise specified in the Governing Documents.

(xiii) 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.

(d) *The Process for Tabulating Ballots and Announcement of the Results of the Vote.* All votes shall be counted and tabulated by the Inspector or Inspectors of Elections, or the designee of the Inspector(s) of Elections, in public at a properly noticed open meeting of the Board or the Members. Any candidate or other Member of the Association may witness the

counting and tabulation of the votes. No person, including a Member of the Association or an employee of the management company, shall open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated. The Inspector(s) of Elections, or the designee of the Inspector(s) of Elections, may verify the Member's information and signature on the outer envelope prior to the meeting at which ballots are tabulated. Once a secret ballot is received by the Inspector(s) of Elections that ballot is irrevocable. The tabulated results of the election shall be promptly reported to the Board of Directors and shall be recorded in the minutes of the next meeting of the Board and shall be available for review by the Members of the Association. Within 15 days following the election, the Board shall give General Notice to the Members of the tabulated results of the election.

(e) *Determination of Election Results/Succession to Office.* The 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, the tie shall be broken by random drawing.

(f) *Retention of Election Materials and Access to Ballot Information by Members.* Civil Code section 5105(a)(7) requires Association to retain, as part of the Association's election materials (as defined in Civil Code section 5200(e)), both a candidate registration list and a voter list. The voter list must include name, voting power, and either the physical address of the voter's separate interest, the parcel number, or both. The mailing address for the ballot shall be listed on the voter list if it differs from the physical address of the voter's Residence or if only the Lot number is used.

6. Inspectors of Elections; Powers and Duties. It is the policy of this Association that the Inspector or Inspectors shall be selected by the Board of Directors at a meeting that is open to the Members. In accordance with Civil Code section 5110, the persons appointed as Inspectors of Election must be "independent third parties" which means that they cannot be a person or an entity that is currently employed or under contract to the Association for any compensable services other than serving as an Inspector of Elections. Eligible persons include (but are not limited to): a poll worker with the county registrar of voters, a licensee of the California Board of Accountancy (so long as that person is not providing services to the Association other than being an Inspector of Elections), or a notary public.

Members are prohibited from intimidating, harassing, or stalking the Inspector of Election. All Members must provide a safe distance from the Inspector while counting and not engage in any inappropriate conduct against the Inspector.

The following are the powers and duties of the Inspector(s) of Election appointed by the Board of Directors (which powers and duties must be performed in good faith, to the best of the abilities of the Inspector or Inspectors, and as expeditiously as practical, and in a manner that protects the interests of all Members of the Association):

(a) Determine the number of memberships entitled to vote and the voting power of each membership.

(b) Determine the authenticity, validity, and effect of proxies, if any. Pursuant to the Association's Bylaws, voting by proxy shall be permitted.

(c) Receive 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, consistent with the Governing Documents and the Act;

(g) Determine the tabulated results of the election (with that tabulation being conducted either by the Inspector(s) of Election or the designee of the Inspector(s) of Election in public at a properly noticed open meeting of the Board or the Members. The tabulated results of the election must be reported to the Board promptly and recorded in the next meeting of the Board;

(h) Comply, in a timely manner, with the election document distribution requirements at least 30 days prior to the election date; and

(i) Perform any acts as may be proper to conduct the election with fairness to all Members in accordance with the Act, the Corporations Code, and all applicable rules of the Association regarding the conduct of the election that are not in conflict the Act.

7. Campaign Signs. Campaign signs may not be erected or maintained on any portion of the Common Areas. Campaign signs on a candidate's Lot or on other Residences (with the permission of the Owners of such Lots), shall comply with the requirements listed on the candidate instruction form and shall be removed no later than 10 days following the date of the election.

8. Provision of Mailing Labels. Candidates and other Members are entitled to purchase labels from the Association for mailing election materials by paying the fee currently in place at the time a request for mailing labels is made. Payment must be made at the time the labels are ordered.

9. Proxy Voting and Cumulative Voting. The secret ballot voting requirements of the Act do not prohibit the use of proxy voting (subject to certain constraints imposed by Civil Code section 5130). Use of proxies in connection with director elections is permitted in accordance

with the Association's Bylaws. Cumulative voting is permitted in the election of directors in accordance with the Association's Bylaws and CC&Rs.

10. Election of Directors by Acclamation. Qualified candidates can be elected by acclamation if the following conditions are met, pursuant to the Act:

(a) The Association holds a director election at least once every four years, and the Association held a regular election for directors in the last 3 years.

(b) The number of qualified candidates is not more than the number of vacancies to be elected.

(c) Notice for submitting nominations is given at least 90 days before the deadline for submitting nominations. The notice must include the number of open board positions, the deadline for submitting nominations, the manner in which nominations can be submitted, and a statement informing members the seats can be filled by acclamation without balloting.

(d) A reminder notice is sent between 7 and 30 days before the deadline for submitting nominations.

(e) The Association provides, within 7 business days of receiving a nomination, acknowledgement of the nomination (i) to the member who submitted the nomination and (ii) to the nominee that they either qualify or do not. If disqualified, the reason for disqualification must be included along with a right to appeal.

(f) The vote by acclamation takes place at a duly noticed meeting with the name of each qualified candidate seated by acclamation on the agenda.

11. Virtual Elections. To the fullest extent permitted by law, the Association shall be permitted to conduct an election virtually with the ballot count meeting conducted via a virtual meeting or meeting of the members may be conducted entirely by teleconference, without any physical location being held open for the attendance of any director or member, if all of the following conditions are satisfied:

(a) Notice of the first meeting that is conducted under this section for a particular disaster or emergency affecting the association is delivered to members by individual delivery.

(b) The notice for each meeting conducted under this section includes, in addition to other required content for meeting notices, all of the following:

1. Clear technical instructions on how to participate by teleconference.



2. The telephone number and electronic mail address of a person who can provide technical assistance with the teleconference process, both before and during the meeting.

3. A reminder that a member may request individual delivery of meeting notices, with instructions on how to do so.

4. Every director and member has the same ability to participate in the meeting that would exist if the meeting were held in person.

5. Any vote of the directors shall be conducted by a roll call vote.

6. Any person who is entitled to participate in the meeting shall be given the option of participating by telephone.

Pursuant to the Act, the Association must comply with the following with regard to such virtual meeting:

(a) The meeting at which ballots are to be counted and tabulated is conducted by video conference.

(b) The camera is placed in a location such that members can witness the inspector of elections counting and tabulating the votes.

## 12. Election By Electronic Secret Ballot.

(a) Manner of Casting Votes. Elections may be conducted with the use of electronic ballots, or, if an owner prefers, he or she may vote by written ballot through the mail, as provided below.

(b) All voting shall be conducted by secret ballot only. Other than an election to approve a Special Assessment, which must be done by a secret ballot mailed to the Owners, all voting under these Rules may be conducted by electronic secret ballot only except for those Owners who timely "opt out" of electronic voting, in which case they will receive a written ballot by mail. Notwithstanding the foregoing, the Board shall have the discretion to conduct any election by mail rather than electronically, provided the Owners are notified not later than 120 before the date of the election or the deadline to vote.

(c) Not later than 120 days before the election or deadline to vote, the Association shall provide written notice to each Member of his or her right to "opt out" of electronic voting. The notice shall state the Member's current voting method, the Member's email address that will be used for the vote, a statement that the Member will be required to vote electronically unless he or she opts out of electronic voting in a timely manner, and the deadline by which the

opt out notice must be received by the Association which shall be 90 days before the date of the election or the deadline to vote. If the Association does not have the Member's email address that Owner shall be required to vote by paper ballot.

(d) Owners may also, on their own initiative, change their preferred method of voting (paper ballot or electronic ballot) up to ninety (90) days before the date of the election.

(e) Other than an election to select directors, which must be done at meeting of the Membership, any vote of the Members may be conducted by ballot only without a meeting, except that a meeting is always required for the Inspector of Elections to count the votes.

(f) Voting Procedures. The following voting procedures shall apply generally to all elections conducted by the Association.

(i) The Association shall create and maintain a "Voter List" which must contain the Owner's name, voting power, physical address or parcel number (or both), the mailing addresses of each Member, and the email address of each Member who is listed to vote by electronic means. The Voter List shall identify which Members shall vote by electronic secret ballot and which Members will vote by written ballot through the mail. Members have a right to verify their information on the Voter List up to 30 days before ballots are distributed. Any misinformation on the list shall be reported by the Member and corrected within two (2) business days.

(ii) Notice of the election must be given to each Owner electronically, or by Individual Delivery as defined in Section 4040 of the Civil Code for any Owner who has opted out of voting by electronic means, at least thirty (30) days before the date of the election or deadline to vote. The notice shall state the date, time and location of the meeting (or meeting to open envelopes and count votes), the deadline by which ballots must be received, and the address where the ballots should be sent or delivered for anyone who votes by paper ballot. The notice shall also give instructions on how to vote electronically for those Owners who are voting in that manner.

(iii) At least 30 days prior to the election or the deadline to vote, each Member shall be sent electronically, or by Individual Delivery under Section 4040 of the Civil Code for those Owners who are not voting electronically, the ballot, voting instructions and a copy of these Election Rules. In lieu of distributing the Election Rules, they may be posted on an internet website instead when wording is written into the paper or electronic ballot which advises the Owners of this fact and the internet address to access the Election Rules is provided.

(iv) For those Owners who opt to vote by paper ballot, and in all elections to approve a Special Assessment, two pre-addressed envelopes, with instructions on how to complete and return the ballots, must be sent by first class mail or delivered as otherwise

permitted in Section 4040 of the Civil Code, to each Member, not less than thirty (30) days prior to the deadline for voting.

(v) Ballots circulated to each Member, either by paper or electronically, shall identify the proposed action and provide an opportunity to specify approval or disapproval. The ballot must specify the date upon which it must be returned to the inspector of elections in order to count and the address to which it must be delivered.

(vi) The Board may extend the balloting period if by the original deadline fewer than 75% of the Owners have voted. Notice of the new due date shall be given electronically, or in writing to all Members who have opted out of electronic voting, by Individual Delivery as provided in Section 4040 of the Civil Code.

(vii) The Association may not deny a ballot to a Member for any reason and must give a ballot to a person who holds a general power of attorney for an Owner.

(viii) Once a ballot has been returned by an Owner, electronically or by mail, the ballot is irrevocable, and he or she may not retrieve the ballot and/or change his or her vote. If a ballot is lost, Owners may contact the Inspector of Elections and upon certifying in writing that his or her ballot has not been returned and cannot be found, he or she will be provided with a replacement ballot. Only one replacement ballot will be provided under any circumstances.

(ix) If, upon reviewing a ballot timely submitted, the Inspector of Elections cannot clearly ascertain from the face of the ballot how the Member intended to vote, the Inspector may contact the Member, if he or she is identifiable, to seek clarification or correction of the ballot; provided, however, if any one Member is contacted for this purpose then all Members whose ballots were not counted for this reason must be contacted.

(x) All ballots, return envelopes, Voter List, and Candidate Registration List must remain in custody of the inspector of elections or at another secure location designated by the Inspector, until after the votes are counted.

**CERTIFICATE OF SECRETARY  
OF  
CHARLESTON ESTATES HOMEOWNERS ASSOCIATION**


I, the undersigned, do hereby certify that:

1. I am the duly appointed and acting Board President of the Association; and
2. The foregoing Election and Balloting Procedures of CHARLESTON ESTATES HOMEOWNERS ASSOCIATION was approved by a majority of a quorum of the Board members during a duly noticed Board meeting held on December 6, 2024.

IN WITNESS WHEREOF, I have hereunto subscribed my hand this \_\_\_\_ day of December, 2024.

**CHARLESTON ESTATES HOMEOWNERS ASSOCIATION**

Dated: 12/06/2024

By:   
Salomeh Sadaghiani (Dec 6, 2024 17:53 PST)

Name: Salomeh Sadaghiani

Title: HOA President

# 9-6-24 Charleston Estates - Election Rules Revised Draft 10.25.24. Approved 12.06.24


Final Audit Report


2024-12-07


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