West Point Loma Owners Association, Inc.

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APPENDIX - BOARD OF DIRECTORS ELECTION PROCEDURES

California's Davis-Stirling Common Interest Development Act (specifically, Civil Code §§5100–5130) requires that common interest development property owner associations, such as the West Point Loma Owners Association, Inc. ("Association"), adopt rules regarding the conduct of elections of directors (as well as other specified votes conducted by an owners' association). Those election rules must comply with a number of specific requirements that are set forth in the statute.

The procedures that follow were drafted to reflect those statutory requirements, and it is these procedures that will be used by the Association in the election of directors for FY 2021 and in subsequent elections, unless certain provisions of these procedures must be modified or amended to reflect subsequently enacted legislation:

1. *Equal Access to Association Media.*

The following guidelines remain in effect regarding the use of Association Media:

(a) Campaign Signs. The posting of campaign signs must be in compliance with current Association rules and state law.[1] In no event shall campaign signs be permitted to be erected or maintained within any portion of the Common Areas of the Development.

(b) Association Advertising. The Association does not currently have and has no plans to have a newsletter or other publication circulated to members.

(c) Provision of Mailing Labels. Candidates are entitled to purchase labels for mailing at a cost of $5.00 to be paid at the time the labels are ordered.

(d) No Other Association Media Access. It is not the policy of the Association to provide candidates with other means of access to Association media, newsletters, or Internet websites during a campaign. In the event that the statements or actions of an incumbent director, who is also a candidate for reelection to the board, are reported in any Association media solely in the context of that director's performance of his or her duties, those reports or statements shall not constitute provision by the Association of access to its media for campaign purposes.

Should this Association policy change in the future, the Civil Code election rules provide that equal access to any permitted media shall be provided to all nominees and members advocating a point of view (whether or not endorsed by the board of directors). An Association cannot edit or redact any content from any candidate communications, but the Association may include a statement specifying that the nominee or member authoring the communication, and not the Association, is responsible for the content of the communication. In accordance with Civil Code §5135, no Association funds shall be used for campaign purposes, except to the extent necessary for the Association to comply with the duties imposed on it by law.

[1]Footnotes constitute no substantive part of the election procedures. They are provided as a convenience for the reader. As of October 2026, the Association rules only allow signs in the windows or on the front door of a unit.

2. *Equal Access to Association Meeting Areas for Nominees and for Members Advocating a Particular Point of View.*

The Association shall provide equal access to the Common Area meeting facilities 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.[2] This requirement, which is imposed by statute, shall not be interpreted as obligating the Association to provide access to such meeting spaces at times when the space is normally and customarily utilized for other Association or community purposes. In other words, the Association retains its authority and responsibility to ensure that the Common Facilities are managed, operated, and accessed for the common benefit and enjoyment of all Association members.

3. *Minimum Qualifications for Candidacy.*

In accordance with the Association bylaws, to be eligible to be a candidate for election to the board of directors, the candidate must be a member of the Association.[3] 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 may appoint a natural person to be a member for purposes of being eligible for candidacy for election to the board.[4]

A candidate need not reside in the complex. Regular board meetings are ordinarily held at the complex.[5] The candidate must be willing, if elected, to attend those board meetings in person.

Two or more individuals tracing membership in the Association back to ownership interests in the same unit cannot simultaneously be directors.[6] No individual may be elected to the board in conflict with this provision. If two or more individuals from the same unit are candidates, only the one with the most votes can be elected. The others cannot be elected, even if they receive a greater number of votes than another candidate from a different unit.

4. *Nominations for Election to the Board of Directors; Self-Nomination*.

The Association does not use a nominating committee. Any member may "self-nominate" himself or herself for election to the board of directors. Any member desiring to nominate himself or herself as a candidate for election to the board must (a) qualify as an eligible candidate under Civil Code §§5100 and 5105 and the Association's election rules applicable to all candidates at the time the person's candidacy is proposed and thereafter, and (b) present written notice to the board of directors of the person's desire to self-nominate on or before the nominations deadline set by the board of directors.

The nomination deadline set by the board of directors must allow a reasonable time prior to the anticipated date ballots are to be mailed to prepare voting materials. This time must not exceed three weeks.

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[2]As of October 2026, the Association had no common area meeting facilities. The driveway area is not a meeting facility.

[3]Tenants / lessees / renters / roommates are not members of the Association and are not eligible to serve on the board (unless designated by an owner that is not a natural person).

[4]Revocable living trusts are disregarded for purposes of this provision.

[5]Board meetings are to be conducted in person at a physical location at the complex, unless the Board agrees otherwise. The members of the Board in office as of October 2026 have unanimously agreed to conduct meetings via Zoom rather than in person. This determination is not binding on Board members in office in FY 2027. No single member of the Board may insist on meetings conducted via Zoom or similar videoconference.

[6]For example, a husband and wife could not simultaneously serve as directors.

Candidates' names shall be listed on the ballot alphabetically by last name.

Write-in candidates are permitted.

Ballots must be mailed, even if the number of nominated candidates is less than or equal to the number of positions to be filled.

5. *Voting Eligibility.*

In accordance with Civil Code §5105(g), no member may be denied a ballot for any reason other than not being a member at the time when ballots are distributed.

6. *Proxy Voting*.

The Civil Code rules relating to proxy voting in the election of directors do not apply to the election of directors under the secret ballot election process utilized by the Association.

7. *Cumulative Voting.*

Every member entitled to vote at any election for directors of the Association may cumulate their votes and give one candidate a number of votes equal to the number of directors to be elected, or distribute their votes on the same principle among as many candidates as they may desire. The candidates receiving the highest number of votes up to the number of directors to be elected shall be elected directors of the Association.

8. *Notifications Regarding the Voting Process.*

The secret ballot voting procedures of Civil Code §5115(c) specify that associations must provide general notice (Civil Code §4045) to all members regarding the procedures and deadline for submitting a nomination for election to the board (or individual notice (Civil Code §4040) if requested by a particular member). Civil Code §5115(b) requires associations to provide general notice, at least 30 days before distribution of election ballots, of all of the following: (i) the date and time by which, and the physical address where, ballots are to be returned by mail or handed to the inspector(s) of elections; (ii) the date, time, and location of the meeting at which the ballots will be counted; and (iii) the list of all candidates' names that will appear on the ballot. This information must be provided by individual notice if so requested by a particular owner. Because state law requires the Association to utilize a double-envelope ballot system in the election of directors and the sealed ballots must be mailed or delivered by hand to a location specified by the inspector(s) of elections (Civil Code §5115(c)(2)), any ballots that are sent to the inspector(s) of elections by facsimile transmission or e-mail will not be counted.

9. *Use of Secret Ballots and Ballot Completion Requirements.*

In accordance with Civil Code §5100(a), ballots used in the election of directors must be secret ballots that do not identify the voter by name, address, or lot number. The secret ballots, together with two pre-addressed envelopes with instructions on how to return ballots, must be mailed by first-class mail or delivered to every member of the Association not less than 30 days before the deadline for voting. The unsigned ballot must be inserted into an envelope ("Ballot Envelope") that is sealed, and this sealed Ballot Envelope must then be inserted into a second envelope ("Address Envelope") that is sealed. In the upper left-hand corner of the Address Envelope, a space or lines must be presented where the voter can print and sign his or her name, address, and lot number. The Address Envelope must be addressed to the inspector of elections who will tally the votes. The Address Envelope (containing the ballot and the Ballot Envelope) may be mailed or delivered by hand to the location specified by the inspector(s) of elections for the return of ballots, and the member may request a receipt for delivery of the ballot.

The deadline for voting must be a weekday, must not be a holiday, and must be a day on which first-class mail is regularly delivered. Ballots mailed to but not actually received by the inspector of elections prior to the deadline for voting will not be counted.

Ballots must be returned directly to the inspector of elections individually and not collectively. Ballots must not be returned to any director or officer of the Association (or to any individual sharing a residence with such director or officer) unless that person has been designated as the inspector of elections. No candidate or person acting in support of a candidate may collect ballots. No person may submit a ballot other than their own.

10. *Single Ballot Per Unit; No Fractional Votes*.

Only one ballot will be recognized per unit regardless of the number of separate ownership interests in the unit. If more than one person has a separate ownership interest in a unit, then those persons must determine amongst themselves how to cast the vote(s) attributable to that unit and record those votes on a single ballot.

If multiple ballots are returned for a single unit, the inspector of elections must determine which one ballot to recognize. If the evidence available to the inspector is in conflict, the inspector may determine that no ballots from that unit should be recognized.

Votes must be in whole numbers. Fractional votes are not permitted and will be disregarded. For example, a ballot purporting to cast one and half votes for a candidate will be treated as casting only one vote for that candidate. The fractional part will be deemed not to have been voted.

10. *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 on the first day of the month following their election.[7] 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.

11. *Supervision of Election Process; Appointment of Inspector(s) of Elections.*

To ensure secrecy of ballots and fairness in the conduct of director elections, the board of directors must select an independent third party or parties to serve as the inspector(s) of elections. The duly appointed inspector of elections shall have the full powers of an inspector of elections appointed by the board under Corporations Code §7614 and 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 inspector of elections is prima facie evidence of the facts stated in the report. In other words, the determinations made by the inspector of elections are final unless challenged and proved to be in error.

Without limiting the foregoing, the inspector of elections shall do all of the following:

(a) Deliver (or cause to be delivered) to each member, at least 30 days before the date of the election, the ballot(s) and a copy of the Association's election operating rules. The rules may be delivered by posting on an Internet website, so long as the website address is noted on the ballot with the statement "The rules governing this election may be found here." Alternatively, the election rules may be provided to members by individual delivery (Civil Code §4040).

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

(c) Determine the authenticity, validity, and effect of proxies, if any.

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[7]Historically, ballots have been due between December 31 and January 5. The date varies depending on the date of the Thanksgiving and New Year's holidays. The Association tries to avoid situations where mail delivery delays due to the New Year's holiday at or near the end of the voting period might be expected. Ballots are counted on the second Tuesday in January. Accordingly, terms of office typically would start on February 1.

(d) Receive ballots. Sealed ballots must at all times be in the custody of the inspector of elections or at a location designated by the inspector until after the tabulation of the vote, at which time custody of the ballots shall be transferred to the Association.

(e) Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.

(f) Count and tabulate all votes.

(g) Determine when the polls close, consistent with the governing documents.

(h) Determine the tabulated results of the election.

(i) Perform any acts as may be proper to the conduct of the election with fairness, impartially, in good faith, and to the best of the inspector's ability, and as expeditiously as is practical, and in a manner that protects the interests of all members of the association. If there are three inspectors of elections, the decision or act of a majority of the inspectors shall be effective in all respects as the decision or act of all. Any report made by the inspector(s) of elections is prima facie evidence of the facts stated in the report. Civil Code §5110(d).

12. *Requirements for Counting and Tabulation of Ballots.*

The designated inspector of elections must count and tabulate the votes in public at a properly noticed open meeting of the board of directors 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 Association's management company, if any, shall open or otherwise review any ballot before the time and place at which the ballots are counted and tabulated.

13. *Announcement of Results of Election.*

The results of the election shall be promptly reported to the board of directors of the Association, shall be recorded in the minutes of the next meeting of the board, and shall be available for review by members of the Association. Within 15 days of the election, the board shall give general notice (as specified in Civil Code §4045) to the members of the tabulated results of the election.

14. *Retention of Ballots.*

The sealed ballots, signed voter envelopes, voter list, proxies, and the candidate registration list shall at all times remain in the custody of the inspector(s) of election or at a location designated by the inspector(s) for no less than 1 year after the date of the election. Civil Code §§5125(a), 5145. In the event of a recount or other challenge to the election process, the Association shall, on 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.

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