

**Cherrywood Homeowners' Association**

**ELECTION RULES**

**EFFECTIVE ON JULY 1, 2006**

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## CHICO CHERRYWOOD CONDIMINIMUMS

### ELECTION RULES EFFECTIVE ON JULY 1, 2006

The Board of Directors adopted these election rules in accordance with California Civil Code Section 1357.100 et seq. Notwithstanding any other law or provision of the governing documents, these rules shall apply to all matters set forth in Section 1363.03(b) of the California Civil Code.

#### **Section 1.     Inspector(s) of Election**

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##### **A.     Appointment and Term**

1.     **Appointment.** The Board of Directors shall appoint one or three persons to serve as the Inspector(s) of Elections, who shall serve at the discretion of the Board, and who shall have such powers and duties as the Board shall determine, subject to the limitations imposed by these Election Rules.
2.     **Term.** The Inspector(s) of Election shall serve in their capacity until they resign, are discharged by the Board, or until they submit their completed written report to the Board as required by Section 1(D)(2)(j).

##### **B.     Qualifications**

1.     The Inspector(s) of Elections must be an independent third party who is not any of the following:
  - a.     Currently a Member of the Board of Directors or a candidate for the Board of Directors; or
  - b.     Related to a Member of the Board of Directors or a candidate for the Board of Directors.
2.     Within the absolute discretion of the Board, an independent third party may be a person who is currently employed or under contract to the Association for any compensable services.

##### **C.     Powers**

1.     Notwithstanding any provision in the Association's governing documents to the contrary, an Inspector(s) of Elections shall preside over an election or vote dealing with any of the matters listed in Section 10, below.
2.     The Inspector(s) of Elections may meet and discuss election issues amongst themselves and/or with the Association's legal counsel.
3.     If there are three Inspectors of Elections, the decision or act of two or more Inspectors of Elections shall be effective in all respects as the decision or act of all.

**D. Duties**

1. The Inspector(s) of Elections shall perform his or her duties impartially, in good faith, to the best of his or her ability, and as expeditiously as is practical.
2. The Inspector(s) of Elections 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 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 closed.
  - g. Determine the result of the election.
  - h. Appoint and oversee additional persons to count and tabulate votes as the Inspector(s) of Elections deems appropriate, if permitted by California law.
  - i. 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.
  - j. Prepare a written report of the activities undertaken in any election.

**Section 2. Director Qualifications**

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All persons nominated for election to the Board of Directors shall meet the qualifications set forth in the Bylaws of Chico Cherrywood Homeowners' Association Inc. (hereinafter, the "Bylaws") and the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Cherrywood a Condominium Development (hereinafter, the "Declaration").

**Section 3. Nomination Procedures**

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- A. Notwithstanding any provision contained in the Association's governing documents to the contrary, Members may nominate themselves for candidacy in an election.
- B. The Board shall determine in its discretion how far in advance nominations must be submitted to the Association's Secretary before the distribution of the ballots to the Members, in order for candidates' names to be included on the Secret Ballots.
- C. If a person nominated is not qualified to hold an elected position his or her name shall not appear on the ballot and he or she will not be permitted to serve if elected.

**Section 4. Media Access**

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- A. The Association is under no obligation to provide any publicity for election purposes, however, if any publicity is provided by the Association for purposes that are reasonably related to the election, it shall be provided to all candidates and Members advocating a point of view.
- B. If any publicity is provided by the Association, the Association will not censor, edit or redact the communication but shall include a statement specifying that the message is that of the Members and the Association is not responsible for its content. The following statement shall be published by the Association: "*The views expressed are those of its author and do not reflect the views of the Association, its directors, managers, employees, or agents. The author is solely responsible for its content. The Association was required by law to publish the communication as written regardless of the content.*"

**Section 5. Common Area Meeting Space**

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- A. Access to the common area meeting space, if any, during a campaign shall be provided at no cost to all candidates and Members advocating a point of view for purposes reasonably related to the election or vote.
- B. Any Member desiring to use the common area meeting space for such a purpose shall be responsible for leaving the premises in the condition they were found. The Member shall be required to provide a deposit which will be returned when the premises are returned clean and undamaged.

**Section 6. Association Funds**

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Association funds shall not be used for campaign purposes in connection with any election, except that the Association may provide publicity equally in its discretion.

**Section 7. Voting Qualifications**

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- A. **Voting Qualifications of Each Member.** Only Members whose names stand on the records of the Corporation as of the record date for any vote of the membership are entitled to vote.
- B. **Voting Power of Each Member.** On each matter submitted to a vote of the Members, called and held pursuant to the provisions of the Bylaws, the Declaration or otherwise, each Member shall be entitled to cast votes consistent with the requirements of the Declaration and the Bylaws as they may be amended from time to time.
- C. **Voting Period for Elections.** The voting period for elections shall be established by the Board of Directors.
- D. **Date of Election.** The date that ballots are distributed shall be the date of election.

**Section 8. Methods of Voting**

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- A. The Association shall not be required to prepare or distribute proxies for any matter requiring vote by Secret Ballot under Civil Code Section 1363.03.
- B. Proxies are permitted for all other elections.
- C. Proxies are valid and effective only if they comply with California law and the Association's Bylaws. The Inspector(s) of Election may deem a proxy used to vote by Secret Ballot authentic if the proxy complies with California Civil Code Section 1363.03(d). The Inspector(s) of Election may take into consideration any other reasonable criteria established by the Board of Directors to authenticate a proxy or Secret Ballot.

**Section 9. Voting Period**

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- A. The Board of Directors shall generally determine the dates upon which polls will open and close. Once appointed to oversee an election, the Inspector(s) of Elections shall determine, in their discretion, the specific days and times when the polls close.
- B. In the Board of Directors sole discretion the voting period may be extended if sufficient ballots have not been received.

**Section 10. Ballot Requirements**

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Voting with regard to the matters addressed in Civil Code Section 1363.03(b) shall be determined by using a double envelope system to ensure the anonymity of the Member casting his or her vote.

**Section 11. Ballot and Vote Procedure**

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- A. **Ballots**
  - 1. A ballot and two pre-addressed envelopes with instructions on how to return the ballot shall be mailed by first-class mail or delivered by the Association to every Member not less than 30 days prior to the date that the polls will close.
  - 2. A voter may not be identified by name, address, or the lot or parcel number that entitles him or her to vote on the ballot.
  - 3. The ballot itself is not to be signed by the Member voting, but is to be inserted into an envelope that is sealed by the Member. This envelope is inserted into a second envelope that is sealed by the Member.
  - 4. The second envelope is addressed to the Inspector(s) of Election. In the upper left-hand corner of the second envelope, the voter prints and signs his or her name, address, and lot or parcel number that entitles him or her to vote.

5. The ballot may be mailed or delivered by hand to a location specified by the Inspector(s) of Election. The Member may request a receipt for delivery.
6. A ballot is cast when it is received at the location specified by the Inspector(s) of Election. Once a ballot is cast it cannot be revoked.

**B. Vote Tabulation**

1. The ballots shall not be opened or otherwise reviewed prior to the time and place at which the ballots are counted and tabulated.
2. All votes shall be counted and tabulated by the Inspector(s) of Election, or the duly authorized persons appointed by the Inspector(s) of Election to count and tabulate the votes if allowed under California law, in public at a properly noticed open meeting of the Board of Directors or Members.

**Section 12. Voting Results, Storage and Retention**

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**A. Election Results**

1. The Inspector(s) of Election shall promptly report the results of the election to the Board of Directors who shall record the results of the election in the minutes of the next Board meeting and make them available to the Members of the Association for review.
2. Within 15 days of the election, the board shall publicize the results of the election in a communication directed to all Members.

**B. Custody, Storage and Retention of Ballots from Elections**

**1. Custody**

- a. The sealed ballots shall remain in the custody of the Inspector(s) of Election or at a location designated by the Inspector(s) of Elections at all times prior to tabulation of the vote.
- b. After the votes have been tabulated, physical custody of the ballots shall be transferred to the Association.

**2. Storage and Retention**

- a. After tabulation, ballots shall be stored by the Association in a secure place for at least one year after the date of election.
- b. In the event of a recount or other challenge to the election process, upon written request, the Association shall make the ballots available for inspection and review by Association Members or their authorized representatives.

- c. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.