

22.0.1 SCOPE

Notwithstanding any other law or provision of the governing documents, elections regarding assessments legally requiring a vote by the affected Projects, election and removal of members of the association board of directors by vote of the members of the TWCM districts, certain amendments to the governing documents^①, or the grant by vote of members of a Project of exclusive use of common area property pursuant to Civil Code Section 4600 shall be held by secret ballot in accordance with the procedures set forth below. Elections for other purposes may, at the discretion of the Board, be held at duly noticed meetings of the members or by mailed ballots pursuant to this section.

22.0.2 EQUAL ACCESS RULE

Candidates for office, and members advocating a point of view, shall have equal access to TWCM media, newsletters, or Internet Web sites during a campaign, for purposes that are reasonably related to that election. TWCM shall not edit or redact any content from these communications but may include a statement specifying that the candidate or member, and not TWCM, is responsible for that content. Candidates for office, including candidates who are not incumbents, and members advocating a point of view, including viewpoints not endorsed by the board, shall have equal access to the common area meeting space, if any exists, during a campaign, at no cost, for purposes reasonably related to the election.

22.0.3 QUORUM

The quorum for the transaction of business at membership meetings at the Project, district, and Mutual levels, and for election of a district director, is twenty percent (20%)* of the members eligible to vote, except that the quorum shall be three (3) members eligible to vote if the sole purpose of the meeting is to count and tabulate secret mail ballots. A quorum for meetings of the Board of directors, including the organizational meeting, is a majority of the directors. Generally, a majority of votes cast by at least a quorum shall decide an election to office or any other question brought to a vote, however, approval by 67% of the members in a Project is required to allow exclusive use of common property, and the quorum for Project elections on certain special assessments, and for raising regular assessments more than 20%, is more than 50% of the members of the Project. Additionally, where a governing document provides that its amendment requires more than a majority of at least a quorum, the provisions of the governing document will control. (*Revised Bylaws adopted May 17, 2007 reduced quorum to 10%)

22.0.4 VOTING RIGHTS

All members as of the date of the election or vote shall be qualified to vote in that election. All members shall have one vote in any election and shall have the voting power assigned to them in the Governing Documents. Members shall not be denied a ballot for any reason other than as set forth in the Election and Voting Rules set forth in this TWCM Policies and Procedures 22.0.0 Elections.

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22.0.7 VOTING PERIODS

In any election by secret ballot, the polls are considered open when the ballots are mailed to the membership. The polls are considered closed at the end of business on a day, not earlier than thirty (30) days after the polls open, to be specified on the ballot.

22.1.1 SELECTION

The Board of Directors shall appoint one or three independent parties as Inspector(s) of Election for each election by mail ballot. The Board shall allow the Inspector(s) of Election to appoint and oversee additional independent third parties to verify signatures and to count and tabulate votes. For the purposes of this rule, an independent third party may 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 not be a person or business entity, or subdivision of a business entity currently employed or under contract to the association for any compensable services.

22.1.2 DUTIES: THE INSPECTOR(S) OF ELECTION SHALL

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

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

Receive ballots

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

Count and tabulate all votes.

Determine when the polls shall close, consistent with the governing documents.

Determine the tabulated results of the election.

Perform any acts as may be proper to conduct the election with fairness to all members in accordance with this section, the Corporations Code, and all applicable rules of the association regarding the conduct of the election that are not in conflict with this section.

Perform the Inspector(s) duties impartially, in good faith, to the best of the Inspector(s) ability, and as expeditiously as is practical. If there are three inspectors of election, 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.

22.2.1 BALLOT MAILING

Ballots and two preaddressed envelopes with instructions on how to return ballots shall be mailed by first-class mail or delivered by the association to every membership 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 ballot itself is not signed by the voter but is inserted into an envelope that is sealed. This envelope is inserted into the second envelope that is sealed. In the upper left-hand corner of the second envelope, the voter shall sign his or her name in the space provided below the unit file number. The second envelope is addressed to the Inspector(s) of Election, who will be tallying the votes. The envelope shall be mailed to a location specified by the Inspector(s) of Election. Ballots submitted by any other method will be disqualified. The member may request a receipt for delivery. Once a secret ballot is received by the Inspector(s) of Election, it shall be irrevocable.

22.2.2 CUSTODY OF BALLOTS

The Election Inspector shall maintain in the inspector's custody or at a location designated by the inspector the sealed ballots, signed voter envelopes, voter list (which shall include the member's name, their Third Mutual address and if applicable, their mailing address [members may verify their information at any time prior to 30 days before the ballots are distributed]) and candidate registration list until the date scheduled for the tabulation of the vote; and, until the time allowed by Civil Code Section 5145 for challenging the election has expired. No person, including a member of the association or an employee of the management company, or an Inspector or Inspectors of Election, shall open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated. If there is a demand to inspect the ballots or challenge to the election, the Election Inspector shall make the ballots available to the requesting member or the member's authorized representative. On the date of the tabulation and counting, the sealed ballots may be transported to the location of the meeting to count and tabulate the ballots. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.

22.2.3 COUNTING AND TABULATION

All votes shall be counted and tabulated by the Inspector(s) of Election or his or her designee(s) in public at the open meeting of the board of directors, or an open meeting of the members (Project, district, or mutual) entitled to vote, announced in the ballot solicitation. Any candidate or other member of the association may witness the counting and tabulation of the votes. The tabulated 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 after the election, the board shall publicize the tabulated results of the election in a communication directed to all members. ②

22.2.4 VALIDITY OF BALLOTS

During the counting of ballots by or under direction by the Inspector(s) of Election, if two or more ballots are received from the same membership, and they are marked identically, they shall be accepted as one ballot. If two or more ballots are received from the same membership, and they are marked differently, they are disqualified. An unmarked ballot is disqualified. A ballot marked both Yes and No is disqualified. A ballot marked to indicate the vote is conditional is disqualified. Any unofficial ballot is disqualified.

22.3.0 CANDIDATE QUALIFICATIONS, NOMINATIONS AND DISQUALIFICATIONS (Replaces former 22.3.0 Eligibility for Office of Director and 22.4.0 Nominating Procedure)

1. All candidates for the Board of Directors must be members of the Third Walnut Creek Mutual at the time of their nomination and in good standing. In good standing shall mean all assessments are paid in full at the time of the nomination/election; and, the member's right to run for office has not been suspended due to the violation of the Third Walnut Creek Mutual and/or their Project's Governing Documents, including but not limited to operating rules/policies, Declaration of Covenants, Conditions and Restrictions, By-Laws or Articles of Incorporation. Once elected, a director shall also be required to remain current in the payment of regular and special assessments; and not suspended due to violations of the governing documents.

2. Any member can nominate any other member, including themselves, as a candidate for the Board of Directors by submitting a written statement that they are nominating the person named as a candidate and including their address and telephone number to the Board of Directors or the Manager for the Third Walnut Creek Mutual. Nominations shall begin at least three (3) months and seven (7) days prior to the meeting to count and tabulate the election ballots. The due date for the receipt of nominations shall be one week prior to the deadline for the mailing of the Notice of Meeting to Count and Tabulate the ballots to allow time to include the names of the nominees in the Notice of Meeting

3. The Third Walnut Creek Mutual shall disqualify a person from a nomination as a candidate if they are not a member at the time of the nomination; or at such time as it is learned that the proposed candidate is not a member. The Third Walnut Creek Mutual may also disqualify a candidate for the following reasons:

- a. If another person who holds joint ownership in the same separate interest unit/parcel and the other person is nominated or currently serving on the board of directors;
- b. If the person has been a member for less than one year
- c. If the person has a criminal conviction preventing the Third Walnut Creek Mutual from purchasing a Civil Code Section 5806 Fidelity Bond, or if the conviction would cause the existing bond coverage to terminate should the person be elected;
- d. If the person is not current in the payment of regular or special assessments, unless,
 - i. The assessment was paid under protest;
 - ii. The person has entered into a payment plan to repay the assessment; or,
 - iii. the person has not been provided the opportunity to engage in internal dispute resolution.
- e. If the person is currently in violation of the Third Walnut Creek Mutual or their Projects governing documents.

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22.5.0 ELECTION AND APPOINTMENT OF OFFICERS OF THE CORPORATION

The initial election of the required officers of the corporation and appointment of additional officers of the corporation takes place at the organizational meeting of the new Board following the annual meeting of members of the corporation. The new Board shall appoint an Inspector or Inspectors of Election for the purposes of this meeting.

22.5.1 ELECTION OF REQUIRED OFFICERS

The offices of President, Vice President, Secretary, and Treasurer shall be filled initially, and in the order named, by and from among the directors of the corporation. Where there is only one candidate for an office, the chairperson of the meeting shall cast a majority ballot for that candidate, who shall then be declared elected. If there are two or more candidates for an office, the Inspector(s) of Election will oversee an election by secret ballot. A majority of votes cast by at least a quorum shall determine the winner in such an election. Ties shall be broken immediately by a runoff election.

These officers shall serve at the pleasure of the Board. Vacancies in office shall be filled by election under supervision by an Inspector or Inspectors of Election at a regular meeting of the Board.

22.5.2 APPOINTMENT OF ADDITIONAL OFFICERS

The Board may appoint additional officers at the organizational meeting or at any regular Board meeting. The persons appointed need not be members or directors of the Mutual. These officers serve at the pleasure of the Board.

22.6.0 NOTICE/TIMING REQUIREMENTS

The Third Walnut Creek Mutual shall comply with the following notice/timing requirements:

1. At least 30 days before the annual election of directors, the “TWCM Policies and Procedures 22.0.0 (and sequence) elections” must be transmitted to the members. The Election Policies and Procedures shall not be amended or otherwise modified within 90 days of any election or vote.
2. At least 30 days before the Polls are closed, ballots shall be mailed to the membership;
3. At least 60 days before the Polls are closed, Notice of the Meeting to Count and Tabulate ballots shall be mailed to the membership containing the following information:
 - a. A list of the candidates who will be placed on the ballots;
 - b. Address where ballots may be delivered or mailed to the Election Inspector; and,
 - c. Date, time, location of the meeting to count ballots.
4. The deadline for members to submit written nominations for board positions shall be seven (7) days before the last day the Notice of Meeting may be mailed to the membership; and,
5. At least 30 days before the member deadline for submitting written nominations for board positions, the Third Walnut Creek Mutual shall send the membership written notice of the procedure for submitting written nominations. This notice shall also set forth the deadline date for submitting written nominations.

❶ Usually, governing documents called “rules” (policies and procedures) may be amended by the Board without a mail ballot vote, provided the members have an opportunity to comment on proposed changes before the changes are finally adopted by the Board. However, a rule change shall be put to a secret ballot vote if (1) such a vote is required by the rule itself or by any other governing document, or (2) the proposed rule change would establish a new requirement for voting by secret ballot, or delete a current requirement for voting by secret ballot.

❷ 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 association member or his or her authorized representative. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.

Adopted: February 10, 2020