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# NPMA

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## Elections Policy

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### Version

**If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.**

<b>POLICY DOCUMENT – VERSION CONTROL SHEET</b>	
<b>Title</b>	NPMA Elections Policy Version:
<b>Supersedes</b>	N/A
<b>Originator</b>	Name of Authors:
<b>Board</b>	Referred for approval by: Date of Referral:
<b>Circulation</b>	Issue Date: Circulated By: To: <b>NPMA Board of Directors NPMA Attorney</b>
<b>Review</b>	<b>NPMA Attorney</b>

# TABLE OF CONTENTS

1.0 Purpose of the Policy.....	4
2.0 Mailed media to membership .....	4
3.0 Common area media to membership .....	4
Redaction or Edit of Homeowner Comments .....	6
4.0 Appointment and Term.....	6
A. Appointment and Term.....	6
B. Qualifications .....	6
C. Powers.....	7
D. Duties .....	7
5.0 Director Qualifications.....	7
6.0 Nomination Procedures .....	8
A. Self-Nominate .....	8
B. Nomination Period.....	9
C. Qualified to hold Office.....	9
7.0 Voting Qualifications.....	9
A. Voting qualifications of each Member.....	9
B. Voting power of each Member .....	9
8.0 Methods of Voting .....	9
A. Proxies.....	9
9.0 Voting Period .....	9
A. Voting Period .....	9
B. Extended Voting Period .....	10
10.0 Ballots and Voting Procedures.....	10
A. Ballots.....	10
B. Vote Tabulation.....	11
11.0 Opening Meeting.....	11
A. Elections Results Meeting .....	11
12.0 Delegates.....	11
A. Elections of Delegates.....	11
B. Delegate Voting.....	12
14.0 Voting Results, Storage and Retention.....	12
C. Elections Results .....	12
D. Custody, Storage and Retention of Ballots from Elections(s) .....	12
2. Storage and Retention .....	13

## **1.0 Purpose of the Policy**

The purpose of this policy is to bring NPMA's elections practices into compliance with the law, establish rules that ensure elections are conducted fairly, and are financially sustainable.

Davis-Stirling Act, Section 5105 states *"An association shall adopt operating rules, in accordance with the procedures prescribed by Article 4 (commencing with Section 4340) of Chapter 2, that do all of the following:"*

Therefore, it is required by NPMA to adopt elections rules and select an entity to conduct our elections(s).

## **2.0 Mailed media to membership**

Davis-Stirling Act, Section 5105 (a) (1) states:

Ensure that if any candidate or member advocating a point of view is provided access to association media, newsletters, or internet websites during a campaign, for purposes that are reasonably related to that elections, 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 elections. 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.

NPMA's Policy is the Inspector of Election is authorized to include media to be mailed to the Members for all elections except elections for Board and/or delegate positions. Inspector of Election is authorized to provide voting instructions and explanations on how to vote on election issues. Such instructions and explanations on how to vote do not fall within the "equal access" interpretation of the Davis-Stirling Act, Section 5105 (a) (1). However, should the HOA Board or NPMA management include media which provide a point of view of the election issue(s), Members may submit their point of view on the election's issues on only one side of a 8-1/2" X 11" standard white sheet of paper.

## **3.0 Common area media to membership**

Davis-Stirling Act, Section 5105 (a) (2) states:

Ensure access to the common area meeting space, if any exists, 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 elections. (Keep same font size throughout.)

NPMA implementation of 5105(2):

All candidates and all members advocating a point of view will be provided access to a table in the common area of the Club House to place a written statement at their own expense, as further stated below. Candidates and members will be allowed to engage with members and to solicit signatures in all areas of the Club and association as long as they not to disrupt member privacy and enjoyment of the Club.

Davis-Stirling Act, Section 5135 (a) states:

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

The Inspector of Elections will designate a single table in the clubhouse for candidates and members to display their point-of-view material at no cost but under the following guidelines:

Inspector of Elections will, at a minimum, post notification for candidates and members providing elections media with the following Homeowner Comment Guidelines, near the table in the clubhouse signs indicating:

1. All media must be in some way related to the elections.
2. All media cannot exceed the size and type of media allowed for candidates.
3. Statements must be single-sided.
4. Homeowner bares complete cost of statements and responsibility for the placement/replacement of their own statements. Homeowner must deliver statement-by the stated deadline for inclusion in ballot packet(s). The HOA will not charge candidates or members written point of view for including their media in mailed ballot packet(s).
5. Homeowner is entitled to one (1) statement per election issue equal to what is stated in section 2.0. Regardless of the number of persons listed on the Deed, only one (1) statement per home is permitted. Members who have title to more than one home in our HOA are limited to (1) statement, as stated in section 2.0.
6. Designated space in the Club for election materials is unsupervised. Staff are not responsible to maintain this space.
7. Media for elections is only authorized in the designated space at the Club. Media

- found in other areas will be discarded without notice.
8. Media is only authorized in the designated space at the Club from the day ballots are mailed until the last day to submit ballots. Media and any media holders left after the elections period will be discarded without notice.
  9. Media from a homeowner that has met all criteria must include the homeowner's full name and address in a font large enough to easily read. Media without this information will be discarded without notice.
  10. Must include the following statement "The views expressed are those of its author and do not reflect the views of the Association, its directors, managers, employees." Media without this information will be discarded without notice.

#### **Redaction or Edit of Homeowner Comments**

Neither the Inspector of Elections nor NPMA shall edit or redact any content from homeowner elections comments.

## **4.0 Appointment and Term**

### **A. Appointment and Term**

1. **Appointment.** The Board of Directors shall appoint one person to serve as the Inspector of Elections at least ninety (90) days before the date ballots are mailed, who shall have such powers and duties as subject to the limitations imposed by these elections rules ("Elections Rules").
2. **Term.** The Inspector of Elections shall serve in their capacity until they resign or are discharged by the Board, or have fully performed all duties as they relate to the election as outlined in Section 4.0(D) of these Rules.

### **B. Qualifications**

1. The Inspector of Elections will be an independent third party, and shall not be a person or business entity who is currently employed or under contract to the Association for any compensable service other than serving as Inspector of Elections, and who is not any of the following:
  - a. A current Member of the Board of Directors or a candidate for the Board of Directors; or
  - b. Related to a current Member of the Board of Directors or a candidate for the Board of Directors.
2. It is the intent of the Association that if a member of the Association serves as a volunteer Inspector, such volunteer shall be considered a volunteer committee member or a volunteer officer of the Association for purposes of directors and

officers insurance and rights of indemnity arising out of the Inspector's conduct in their role as Inspector under Civil Code Section 5800.

3. The management company may assist the Inspector in performing all duties of the Inspector listed below in Section 4.0(D), in addition to preparing and sending voting materials, except the physical counting and tabulation of votes and determining the results of the election. The Inspector retains the obligation to perform all responsibilities in Section 4.0(D).

### **C. Powers**

1. The Inspector of Elections shall preside over elections or votes dealing with any of the matters set forth in Civil Code Section 5110.
2. If authorized by the Board of Directors, the Inspector of Elections may meet with the Association's legal counsel.
3. The Inspector of Elections may appoint and oversee additional persons to count and tabulate votes as the Inspector of Elections deems appropriate.

### **D. Duties**

1. The Inspector of Elections shall perform their duties impartially, in good faith, to the best of their ability, and as expeditiously as is practical.
2. The Inspector 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 close, consistent with the Association's governing documents and California law.
  - g. Determine the result of the elections.
  - h. Perform any acts as may be proper to conduct the elections with fairness to all members in accordance with this section and all applicable rules of the Association regarding the conduct of the elections that are not in conflict with this section.
  - i. Prepare a written report of the activities undertaken in any elections.

## **5.0 Director Qualifications**

### **A. Candidate Qualifications**

1. **Member**. A candidate shall be a Member of the Association at the time of nomination. If title is held by a legal entity that is not a natural person, the governing authority of that legal entity shall have the power to appoint a natural person in writing to be a Member for purposes of this subsection. The Association shall bear no liability for the veracity of such appointment. .
2. **Current in Assessments**. Only Members who are current in the payment of regular or special assessments shall be eligible to be elected to and serve on the Board. This provision applies throughout every Director's term of office.
  - a. The Association may not disqualify a candidate for nonpayment of fines, fines renamed as assessments, collection charges, late charges, or costs levied by a third party.
  - b. The Association may also not disqualify a candidate for failure to be current in payment of regular and special assessments if either of the following is true
    1. The candidate has paid the regular or special assessment under protest pursuant to Civil Code Section 5658.
    2. Person has entered into a payment plan pursuant to Civil Code Section 5665.
3. **One Owner per Lot**. Only one (1) Owner of a particular Lot shall serve on the Board at any time.
4. **Prevent Fidelity Bond Coverage**. A Member shall neither be qualified as a candidate nor continue to serve as a Director if that candidate or Director has a past criminal conviction which would prevent the Association from purchasing fidelity bond coverage as required by Civil Code Section 5806 or would terminate the Association's existing fidelity bond coverage.
5. **Engaging in Internal Dispute Resolution**. The Association shall not disqualify a Member from nomination who is delinquent in payment of their regular or special assessments if the Member has neither requested nor been asked and provided the opportunity to engage in internal dispute resolution with the Association. This provision shall not apply, however, if the Association has previously offered the Member the opportunity to engage in the Association's internal dispute resolution process regarding the delinquency.
6. **Term Limits**. There shall be no limits on the number of consecutive terms a Director may serve, and this language shall supersede the limits on terms set forth in the Bylaws.

## 6.0 Nomination Procedures

### A. **Self-Nominate**

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1. Notwithstanding any provision contained in the Association's governing documents to the contrary, members may nominate themselves as candidates for elections to the Board of Directors.

**B. Nomination Period**

1. Nominations must be submitted to the Association's Secretary at least 60 days before the distribution of the ballots to the members. Nominations shall be opened at least thirty (30) days before the deadline for submitting a nomination.

**C. Not Qualified to hold Office**

1. If a person nominated is not qualified to hold an elected position, their name shall not appear on the ballot, and they will not be permitted to serve if elected.

## **7.0 Voting Qualifications**

**A. Voting qualifications of each Member**

1. Only NPMA members may vote on any issue or matter presented to the members for approval.

**B. Voting power of each Member**

1. Members may cast one (1) vote per lot owned. Votes may be cast by a person who provides documentation showing they hold general power of attorney for a Member. The Association shall bear no liability for the veracity of the general power of attorney provided.

## **8.0 Methods of Voting**

**A. Proxies**

1. Proxies are not allowed in any elections of Directors or Delegates.

## **9.0 Voting Period**

**A. Voting Period**

1. The Inspector of Elections shall determine the dates upon which polls will open and close. Once appointed to oversee elections, the Inspector of Elections shall determine, at their discretion, the specific days and times when the polls close.
2. The Inspector of Elections will recommend to the Board of Directors, and the

Board of Directors will determine, the date of elections.

**B. Extended Voting Period**

1. The Board or the Inspector shall have the discretion to extend the voting period if sufficient secret ballots have not been received.

- C. Director Election at Least Once Every Four Years.** The Association shall hold an election for a seat on the Board using the procedures in these Rules at the expiration of each Director's term of office and at least once every four (4) years.

## **10.0 Ballots and Voting Procedures**

- A. Election Notice** - In addition to other notice deadlines contained in these Rules, the Association shall provide general notice of all of the following at least thirty (30) days before ballots are distributed:

1. The date and time by which, and the physical address where, ballots are to be returned by mail or handed to the Inspector.
2. The date, time, and location of the meeting at which ballots will be counted.
3. The list of all candidate names that will appear on the ballot.
4. Individual notice of the above paragraphs shall be delivered pursuant to Civil Code Section 4040 if notice is requested by a Member.

**B. Ballots**

1. A ballot and two pre-addressed envelopes, a smaller (inner) envelope and a larger (outer) envelope, along with instructions on how to return the ballot; and a copy of these Rules shall be mailed by first-class mail or delivered by the Association to every Homeowner not less than 30 days prior to the election. Instead of mailing a copy of these Rules, the Association post these Rules to an internet website and including the corresponding internet website address on the ballot together with the phrase, in at least twelve (12)-point font: "The rules governing this election may be found here:"
2. The Association shall not deny a ballot to a Member for any reason other than not being a Member at the time when ballots are distributed.
3. The Association shall not deny a ballot to a person with general power of attorney for a Member.
4. The ballot of a person with general power of attorney for a Member shall be counted if returned in a timely manner.
5. A voter may not be identified by name, address, or the lot or unit number that entitles them to vote on the ballot.
6. The ballot itself is not to be signed by the Homeowner voting, but is to be inserted

into the smaller (inner) envelope that is sealed by the voter. This envelope is inserted into the larger (outer) envelope that is sealed by the voter.

7. The larger (outer) envelope is addressed to the Inspector of Elections. In the upper left-hand corner of the second envelope, the voter prints and signs their name, address, and lot or unit number that entitles them to vote.
8. The ballot may be mailed or delivered by hand to a location specified by the Inspector of Elections. The Homeowner may request a receipt for delivery.
9. Once a ballot is cast, it cannot be revoked. A ballot is "cast" when the Inspector of Elections receives it.

### **C. 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. In no event shall any ballots be opened if insufficient ballots exist to meet the quorum requirement.
2. All votes shall be counted and tabulated by the Inspector of Elections, or by the duly authorized persons appointed by the Inspector of Elections to count and tabulate the votes if allowed under California law, in public at a properly noticed open meeting of the Board of Directors.
3. If the Inspector of Elections determine that insufficient ballots exist to meet the quorum requirement, the Board may extend the voting period, or other actions, for any matters subject to these Elections Rules.
4. In a Board of Director election, if there is a tie vote between those candidates who receive the second highest number of votes, the tie shall be broken by a random method, as determined by the Inspector of Elections when applicable.

## **11.0 Opening Meeting**

### **A. Elections Results Meeting**

1. With the exception of the Delegates results meeting, any elections result meeting is a Delegates meeting; therefore, a quorum of the Board must be present to begin and end the meeting.

## **12.0 Delegates**

### **A. Elections of Delegates**

1. The Inspector of Elections and their designees shall tabulate all ballots cast by the Members with respect to the Elections of Delegates as outlined in Section 6.09(e) of the First Restated Bylaws of the Natomas Park Association.

**B. Delegate Voting**

1. There shall be an Annual Association Delegates Meeting in the month of June of each year on a date that is at least thirty (30) days following the mailing or distribution of elections ballots and elections material to the members in accordance with Section 6.09(d), above. The principal purpose of the Annual Association Delegates Meeting shall be to tabulate the ballots cast by members and Delegates in accordance with Section 6.09(e), above, and to announce the results of the elections of Director(s).
2. Special meetings of Delegates
  - i. Special meetings of Delegates, for any purpose, shall follow the outline as specified in Section 7.03 of the First Restated Bylaws of the Natomas Park Association.

**13.0 Voting Results, Storage and Retention**

**A. Elections Results**

1. The Inspector of Elections shall promptly report the results of the elections to the Board of Directors who shall record the results of the elections 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 elections, the Board shall publicize the results of the elections in the designated location in the common area for posting notices.

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

1. Custody
  - a. The sealed ballots; signed voter envelopes; voter list of names, parcel numbers, and voters to whom ballots were sent; proxies; and the candidate registration list shall, at all times, be in the custody of the Inspector or at a location designated by the Inspector until after the tabulation of the vote; and then for one (1) year, at which time custody shall be transferred to the Association. One (1) year after the Member vote concluded, the Association must retain, as Association records, these documents for the remainder of the current fiscal year that it receives the records and for each of the following two (2) fiscal years.
  - b. In the event of a recount or other challenge to the election process, the Inspector shall, upon written request, make the secret ballots available for inspection and review by Members or their authorized representatives if the request is timely. Any recount shall be conducted in a manner that

preserves the confidentiality of the vote.

- c. Signed voter envelopes may be inspected but shall not be copied by any Member inspecting Association records

## **2. Storage and Retention**

- a. Materials that shall be retained as election materials include:
  - i. Candidate Registration List
  - ii. Voter List, which shall include the 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 separate interest or if only the parcel number is used
- b. The Association shall permit Members to verify the accuracy of their individual information on both lists at least thirty (30) days before the ballots are distributed. The Association or Member shall report any errors or omissions to either list to the Inspector, who shall make the corrections within two (2) business days.