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# TAHOE DONNER ASSOCIATION ELECTION AND VOTING RULES

These Election and Voting Rules are adopted by the Tahoe Donner Association's Board of Directors ("Board") in accordance with California Civil Code Section 4340 *et seq.* and pursuant to the authority of the Association's governing documents, are intended to comply with California Civil Code Section 5100 *et seq.*, and shall apply to elections regarding (1) Assessments, (2) selection of Directors, (3) removal of Directors, (4) amendments to the governing documents, and (5) grants of exclusive use of Common Area property pursuant to California Civil Code Section 4600. At the discretion of the Board, these Election and Voting Rules may apply to any other matter that may be the subject of a vote of Association Members. Unless the context clearly indicates otherwise, capitalized terms used herein shall have the same meaning as in the Association's governing documents. As used in these Election and Voting Rules, the term "Member" means the owner of a Lot, which is consistent with the definition of "Member" in California Civil Code Section 4160. These Election and Voting Rules are intended to replace and supersede any previously adopted Election and Voting Rules (including without limitation the "Election and Voting Rules" that were adopted by the Board on March 12, 2021).

## Section 1 Elections Regarding Selection of Directors

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This Section 1 shall apply to elections regarding selection of Directors.

**A. Nomination of Candidates.** In addition to any nomination procedures set forth in the Association's Bylaws (except as noted below), Members shall become candidates for election to the Board of Directors as follows:

**1. Candidate Solicitation Announcement.** Subject to the provisions of Paragraph C of this Section 1 (which governs uncontested elections), no later than March 15 of each year, and not less than 30 days before the Association provides the *Election Notification* required by Section 1, Paragraph F of these Election and Voting Rules, the Association shall distribute (via "general delivery"<sup>1</sup>) a notice to all Members, inviting them to become candidates for election to the Board ("Candidate Solicitation Announcement"). The *Candidate Solicitation Announcement* shall contain at least the information set forth in attached **EXHIBIT "A."**

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<sup>1</sup> As that term is defined in California Civil Code Section 4045. Any item that these Election and Voting Rules allow or require to be distributed via "general delivery"/"general notice" shall also be sent via "individual delivery"/"individual notice" (as those terms are defined in California Civil Code Section 4040) to any member who has properly requested to receive general notices via individual delivery.

2. **Self-Nomination.** Each Member who wishes to become a candidate must submit (a) a written notification to the Association indicating the Member's desire to become a candidate ("Application for Candidacy") and (b) written proof of such Member's current record ownership of a Lot within the Tahoe Donner development (collectively, "Candidacy Forms"). The *Application for Candidacy* shall contain at least the information set forth in attached **EXHIBIT "B."** Each Member's *Candidacy Forms* must be (1) in *.PDF* format, (2) e-mailed to the Association at the e-mail address designated by the Association for that purpose, and (3) received by the Association at such e-mail address prior to the deadline specified in the *Candidate Solicitation Announcement* ("Nomination Deadline"). The Nomination Deadline shall not be earlier than 12:00 noon on the date that is 30 days after the date the *Candidate Solicitation Announcement* was distributed to the Members (but in no event after May 1 of that year).

It is each Member's responsibility to confirm that such Member's *Candidacy Forms* were received by the Association prior to the Nomination Deadline. Each Member who meets the qualifications set forth in Section 1, Paragraph D of these Election and Voting Rules and whose *Candidacy Forms* are received by the Association prior to the Nomination Deadline shall automatically be a candidate. There shall be no nominations from the floor at membership or Board meetings, and votes for write- in candidates shall not be valid.

**B. Director Election Statements.** Candidates and Members advocating a point of view may, but are not required to, submit a statement ("Director Election Statement") which (1) when printed, shall not exceed two sides of a single 8½" x 11" page<sup>2</sup>, (2) shall be reasonably related to the election, and (3) shall clearly identify the Member-author by name<sup>3</sup>. Each Member's *Director Election Statement* must be (i) in *.PDF* format, (ii) e-mailed to the Association at the e-mail address designated by the Association for that purpose, and (iii) received by the Association at such e-mail address prior to the deadline specified in the *Candidate Solicitation Announcement* ("Director Election Statement Deadline"). It is each Member's responsibility to confirm that such Member's *Director Election Statement* was received by the Association prior to the Director Election Statement Deadline. Only those *Director Election Statements* that (i) are received by the Association prior to the Director Election Statement Deadline and (ii) clearly identify the Member-author by name shall be treated as *Director Election Statements* under these Election and Voting Rules. The Association shall not edit or redact any content from the *Director Election Statements*.

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<sup>2</sup> If the Association receives a *Director Election Statement* that, when printed, exceeds two sides of a single 8½" x 11" page, the *Director Election Statement* shall be deemed to be only the first two printed pages.

<sup>3</sup> If a *Director Election Statement* does not clearly identify the Member-author by name, the *Director Election Statement* shall be deemed to have been submitted anonymously and will not be included with the *Ballot Packets* or made available through any other form of Association media.

By submitting a *Director Election Statement*, the author accepts full responsibility for the content thereof and agrees to indemnify the Association and its agents and representatives for any and all damage arising from or related to any such content. By submitting a *Director Election Statement* that contains one or more hotlinks, hyperlinks, quick response (QR) codes, or similar features ("Links"), the author (1) accepts full responsibility for the functionality, non-functionality, effect, and failure of any such Links, (2) agrees that the Association and its agents and representatives are not responsible for the functionality, non-functionality, effect, or failure of any such Links, (3) acknowledges, understands, accepts, and agrees that such Links will not be active in the versions of the *Director Election Statements* that the Association mails with the *Ballot Packets* or otherwise makes available, (4) releases the Association and its agents and representatives from any and all liability or damage arising from or related to any such Links or the functionality, non-functionality, effect, or failure of any such Links, and (5) agrees to indemnify the Association and its agents and representatives for any and all liability or damage arising from or related to any such Links or the functionality, non-functionality, effect, or failure of any such Links.

**C. Uncontested Elections (Election by Acclamation).** If (1) at the Nomination Deadline, the number of qualified candidates is not more than the number of seats to be filled at the election, as determined by the Inspector of Elections ("Inspector"), **and (2) all of the conditions set forth in California Civil Code Section 5103 are met**, then the Association may, but is not required to, dispense with distributing ballots and conducting the election and consider the qualified candidates elected by acclamation. The Directors so elected shall serve terms that shall commence upon the expiration of the predecessors' terms. If the number of Directors so elected is less than the number of seats to be filled at the election, the incoming Board shall fill the vacancy(ies) as provided for in the Association's Bylaws. This Paragraph C shall apply notwithstanding anything contained in the Association's governing documents to the contrary and notwithstanding the secret balloting requirement set forth in California Civil Code Section 5100.

**D. Qualifications for Candidacy and Election to the Board.**

1. To be eligible to become a candidate, a person must, as of the Nomination Deadline, (a) be a Member<sup>4</sup> who is current in the payment of regular and special Assessments,<sup>5</sup> and (b) have been a Member for at least one year.

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<sup>4</sup> If title to a Lot 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 to be a Member for purposes of this Section 1, Paragraph D.

<sup>5</sup> A Member shall not be disqualified for failure to be current in payment of regular and special Assessments if any of the following circumstances are true:

(1) The Member has paid the regular or special Assessment under protest pursuant to California Civil Code Section 5658; or

(2) The Member has entered into, and is in compliance with, a payment plan pursuant to California Civil Code Section 5665; or

(3) The Member has not been provided the opportunity to engage in internal dispute resolution pursuant to California Civil Code Section 5900 *et seq.*

2. To be eligible for election to the Board, a candidate must, as of the date scheduled for the close of the balloting period, be a Member<sup>4</sup> who is current in the payment of regular and special Assessments.<sup>5,6</sup>

3. a. A Member shall be disqualified if he or she holds a joint ownership interest in the same Lot as an incumbent Director whose term is not expiring in the current election.

b. A Member shall be disqualified if he or she holds a joint ownership interest in the same Lot as a Member whose *Candidacy Forms* have already been received by the Association. If the Association receives *Candidacy Forms* at the same time, from Members who hold a joint ownership interest in the same Lot, then both/all such Members shall be nominated as candidates but only the Member who receives more votes than his or her co-owner(s) shall be elected, assuming such votes are sufficient to elect such Member.

4. A Member shall be disqualified if he or she is an incumbent Director who is in the second of two elected consecutive terms (see Article VII, Section 2(v) of the Association's Bylaws).

5. A Member shall be disqualified if he or she discloses to the Association, or if the Association is aware or becomes aware of, a past criminal conviction that would, if he or she were elected, either prevent the Association from purchasing the insurance required by California Civil Code Section 5806 or terminate the Association's existing insurance coverage required by California Civil Code Section 5806 as to that person should he or she be elected.<sup>7</sup>

**E. Access to Association Media and Common Area Meeting Space.** The Association shall ensure that the legal requirements set forth in California Civil Code Section 5105(a)(1) and (2) are met by implementing the following:

**1. *Access to Association Media.***

a. Black-and-white copies of all *Director Election Statements* received prior to the Director Election Statement Deadline will be included in the *Ballot Packets* that are mailed to all Members (see Section 1, Paragraph H of these Election and Voting Rules). All such *Director Election*

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<sup>6</sup> All Directors must be current in the payment of regular and special Assessments.

<sup>7</sup> California Corporations Code Section 7221(a) and Article VII, Section 6(c) of the Association's Bylaws allow the Board to declare a Director's seat vacant if the Director has been convicted of a felony.

*Statements* shall be presented in the random order established by the Elections Committee ("Random Order")<sup>8</sup>.

b. The Association shall hold a community meeting ("Community Meeting") at which, at no cost, and for purposes reasonably related to the election, (i) all candidates, and (ii) Members advocating a point of view who comply with such pre-meeting registration procedures as may be adopted by the Association, will have an opportunity to address interested Members.

The Community Meeting shall be held at a date and time to be established by the Association, and at an appropriate location within the Tahoe Donner development and/or via Zoom or some similar remote video meeting platform, as determined by the Association. Notice of the Community Meeting may be given via "general delivery"<sup>1</sup>. The Association shall ordinarily endeavor to hold the Community Meeting after the date the *Ballot Packets* are mailed to the Members but at least 10 days before the date of the meeting at which the envelopes are scheduled to be opened and the ballots are scheduled to be counted and tabulated.

The Association shall designate who shall preside over the Community Meeting, and shall apply such rules and procedures as the Association deems appropriate to accomplish an orderly and fair Community Meeting. The Association shall be entitled to establish time limits for each candidate and Member participating (which shall be the same for all participants).

c. The Association may, but is not obligated to, authorize other access to Association media, newsletters, or internet websites during a campaign, for purposes that are reasonably related to the election, so long as (i) all candidates, and (ii) Members advocating a point of view who comply with such pre-access procedures as may be adopted by the Association, are provided equal access to the forum provided. The Association shall not edit or redact any content from these communications; however, the Association may include a statement specifying that the author of the communication, and not the Association, is responsible for the content of the communication, and that the Association was required by law to publish the communication verbatim, regardless of content.

d. No other access to Association media, newsletters or internet websites shall be provided by the Association to any candidate or Member advocating a point of view during a campaign for purposes that are

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<sup>8</sup> As soon as reasonably practicable after each Nomination Deadline, the Elections Committee shall establish the Random Order for that election, via a blind drawing of all candidates' names.

reasonably related to the election. Without limiting the foregoing, paid advertising in the *Tahoe Donner News + Life* or any other Association publication by candidates or others supporting a candidate or advocating a point of view relating to the election is not permitted.

e. Nothing in these Election and Voting Rules shall preclude the Association, during the balloting period, from communicating to the Members (via e-mail to all Members who have consented to receiving documents from the Association by e-mail, and in other ways):

(i) reminders of the ongoing election, (ii) encouragement to return ballots prior to the close of the balloting period, (iii) instructions for obtaining a replacement ballot, (iv) information on how and where to return completed ballots, and/or (v) the *Secret Ballot Voting Instructions*.

**2. Access to Common Area Meeting Space.** Access to Common Area meeting space, if any exists, shall be provided during a campaign to all candidates and Members advocating a point of view for purposes reasonably related to the election, at no cost, subject to procedural rules as may be adopted by the Association to assure orderly use of such meeting space.

**3. Campaign Signage.** Signage, flyers, and other campaign-related material shall not be posted in or on Association-owned or -controlled Common Area or Common Facilities or property unless expressly authorized by the Association. Campaign signs are permitted on private property (Lots owned by a Member) within the Tahoe Donner development with the Lot Owner's express permission. Any election-related signage must comply with the Town of Truckee's regulations that exist at the time of the election.

**F. Election Notification.** Not less than 30 days before the Association mails out the *Ballot Packets* (see Section 1, Paragraph H of these Election and Voting Rules), the Association shall provide "general notice"<sup>9</sup> to the Members of all of the following ("Election Notification"):

1. The physical address(es) where ballots are to be returned by mail or handed to the Inspector;

2. The date and time by which ballots are to be returned by mail or handed to the Inspector;<sup>9</sup>

3. A statement that the balloting period may be extended if sufficient ballots have not been received to establish a quorum;

4. The date, time, and location of the meeting at which (1) a quorum will be determined and (2) the ballots are scheduled to be counted;

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<sup>9</sup> The balloting period may be extended if sufficient ballots have not been received to establish a quorum - see Section 1, Paragraph H.7 and Section 1, Paragraph L.2 of these Election and Voting Rules.

5. A statement that if the balloting period is extended because sufficient ballots were not received to establish a quorum, the Association will provide notice of the date, time, and location of the rescheduled meeting at which the ballots will be counted; and

6. The list of all candidates' names that will appear on the ballot.

**G. Content of Ballots.** The official ballot form shall contain or state the following:

1. each candidate's name, listed in the Random Order;

2. the number of Directors to be elected;

3. the internet website address where these Election and Voting Rules are posted, together with the following phrase (in at least 12-point font): "*The rules governing this election may be found here.*"<sup>10</sup>

**H. Content and Distribution of Ballot Packets.** The Association shall prepare (or cause to be prepared) the ballot packet ("Ballot Packet"), and not less than 30 days and not more than 35 days prior to the date scheduled for the close of the initial balloting period, the Inspector shall mail (or cause to be mailed<sup>11</sup>) (via first-class U.S. mail, postage prepaid) one *Ballot Packet* to each Member. Each *Ballot Packet* shall contain all of the following:

1. one official ballot;

2. black-and-white copies of all *Director Election Statements* received by the Association prior to the Director Election Statement Deadline;

3. a statement specifying that the Association was not permitted to edit or redact any content from the *Director Election Statements* and thus the author of each *Director Election Statement*, and not the Association, is responsible for the content of such *Director Election Statement*;

4. two sealable envelopes, a smaller envelope ("Inner Envelope") and a larger envelope ("Outer Envelope");

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<sup>10</sup> In lieu of posting these Election and Voting Rules on an internet website and including this phrase on the ballot itself, the Association shall instead include a copy of these Election and Voting Rules in the *Ballot Packets*.

<sup>11</sup> By any person or entity designated by the Inspector, including without limitation any Association employee or the Association's management company, if any.

5. instructions on how to vote using the two-envelope system ("Secret Ballot Voting Instructions");<sup>12</sup>

6. if the internet website address referred to in Section 1, Paragraph G.3 of these Election and Voting Rules is not included on the ballot, a copy of these Election and Voting Rules;

7. (a) the date and time the initial balloting period will close, (b) the quorum requirement and (c) a statement that the balloting period may be extended if sufficient ballots have not been received to establish a quorum; and

8. such other information or items as the Association deems appropriate.

The Inner Envelope shall either (1) be totally blank or (2) contain such wording as may be specified or approved by the Inspector. There shall be no Member-identifying markings on the Inner Envelope. The Outer Envelope shall be pre-addressed in a manner specified or approved by the Inspector. The Outer Envelope shall contain, in the upper left hand corner, the voter's name and the Tahoe Donner address or Unit/Lot number that entitles the voter to vote and contains at least one blank line for the voter to sign the voter's name.

**I. Rules Regarding Voting Using the Two-Envelope System.**

1. Only the official ballot form generated by the Association will be counted.

2. The ballot shall not be required to be signed by the voter.

3. Once completed, the ballot must be inserted into the Inner Envelope and the Inner Envelope must be sealed. The Inner Envelope containing the completed ballot must then be inserted into the Outer Envelope and the Outer Envelope must be sealed.

4. In the upper left-hand corner of the Outer Envelope, the voter shall sign the voter's name, indicate the voter's name, and indicate the address or Unit/Lot number that entitles the voter to vote. The Inspector has the power to invalidate any ballot if the Outer Envelope does not comply with this Paragraph I.4.

5. The Outer Envelope must be submitted to the Inspector in accordance with the Secret Ballot Voting Instructions.

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<sup>12</sup> The *Secret Ballot Voting Instructions* shall be consistent with the provisions of California Civil Code Section 5100 *et seq.*, and may, but are not required to, be presented in the manner set forth in attached EXHIBIT "C."



6. Once a ballot is cast, it cannot be revoked. A ballot is deemed "cast" when it is received at the location(s) designated by the Inspector.

7. If a ballot is properly cast and received within the balloting period, and a sale occurs, the new Member does not cast a second ballot. If no ballot has been cast / received for that property prior to the final voting deadline, the new Member may cast the ballot.

8. The sealed Outer Envelopes shall remain in the custody of the Inspector, or at a location designated by the Inspector, at all times prior to completion of the tabulation process.

9. The Outer Envelopes shall not be opened until the Inspector instructs them to be opened.

**J. Balloting Period.** The initial balloting period shall begin on the date the ballots are distributed and shall close at such time(s) and on such date(s) established by the Association, which shall be not less than 30 days from the date the *Ballot Packets* are mailed to the Members. Ballots received by the Inspector after that time (or, if applicable, after the time established for any extension of the balloting period) will not be accepted or counted.

**K. Inspector of Elections.**

1. ***Appointment and Term.*** Before the Association provides the *Election Notification* required by Section 1, Paragraph F of these Election and Voting Rules, the Board shall appoint one or three people to serve as the Inspector. Each Inspector shall serve at the pleasure of the Board until he or she resigns or is discharged by the Board.

2. ***Qualifications.*** The Inspector shall be an "independent third party." For the purposes of this section, an independent third party includes, but is not limited to, a volunteer poll worker with the county registrar of voters, a licensee of the California Board of Accountancy, or a notary public. Except as provided below, an independent third party may be a Member of the Association. An independent third party may not be a person, business entity, or subdivision of a business entity who is currently employed or under contract to the Association for any compensable services other than serving as the Inspector.

Notwithstanding the foregoing, in no case shall a person serve as an Inspector if he or she is:

- a. a member of the Board or a candidate for the Board; or
- b. related to a member of the Board or a candidate for the Board.

3. ***Duties and Powers.*** The Inspector shall have all powers of an inspector of election as set forth in California Corporations Code Sections 7517 and 7614 and other applicable provisions of California law. Without limiting the generality of the foregoing, the Inspector shall also have the power to do all of the following:

- a. select the party responsible for mailing the *Ballot Packets*;
- b. specify one or more locations to which the Outer Envelopes containing the ballots must be mailed or delivered by hand;
- c. determine the number of memberships entitled to vote and the voting power of each;
- d. determine the authenticity, validity, and effect of proxies, if any, and ballots;
- e. receive ballots;
- f. hear and determine all challenges and questions in any way arising out of, or in connection with, the right to vote;
- g. hear and determine all challenges and questions in any way relating to the envelopes and the ballots;
- h. verify the Member information on the Outer Envelopes prior to opening the Outer Envelopes;
- i. count and tabulate all votes;
- j. designate and oversee additional people to open envelopes, count and tabulate votes, and undertake other tasks in connection with the election that the Inspector deems necessary or appropriate, provided that each such person meets the same qualifications as the Inspector as set forth in Section 1, Paragraph K.2 of these Election and Voting Rules;
- k. establish and apply such rules and procedures as the Inspector deems appropriate to assure that the Members witnessing the opening of the envelopes and the counting and tabulation of the ballots do not interfere with the process, including establishing locations where such Members must be, and/or cannot be, while the envelopes are being opened and the ballots are being counted and tabulated;
- l. determine when the polls close, consistent with the governing documents;
- m. determine the tabulated results of the election;

- n. conduct a random drawing or other method of chance as determined by the Inspector to break a tie in the number of votes cast for election of candidates to the Board;
- o. prepare a written *Report of Inspector of Elections* (see Section 1, Paragraph N of these Election and Voting Rules); and
- p. perform any acts as may be proper to conduct the election with fairness to all Members in accordance with California Civil Code Section 5105, the California Corporations Code, and all applicable rules of the Association regarding the conduct of the election that are not in conflict with California Civil Code Section 5105.

The Inspector shall not invalidate a ballot solely because (i) the voter signed the ballot or otherwise marked the ballot in a manner that allows the voter to be identified, (ii) the voter marked the Inner Envelope in a manner that allows the voter to be identified, (iii) the voter marked the Inner Envelope in a manner that distinguishes it from the other Inner Envelopes, (iv) the Inner Envelope was not sealed, (v) the Outer Envelope was not sealed, or (vi) the voter inserted the ballot into the Outer Envelope without first inserting it into the Inner Envelope.

The Inspector shall perform its duties impartially, in good faith, to the best of its ability, as expeditiously as is practical, and in a manner that protects the interest of all Members of the Association. If three people are serving as the Inspector, the decision or act of a majority shall be effective in all respects as the decision or act of the Inspector.

**L. Opening of Envelopes / Counting and Tabulation of Ballots.**

1. No Outer Envelope containing a ballot may be opened prior to the time at which the ballots are to be counted and tabulated.

2. Envelopes may be opened, and ballots may be tabulated, only if the Inspector has received enough Outer Envelopes to meet the initial "25% of the voting power of the Members" quorum requirement for Member action under Article V, Section 5(a)(ii) of the Association's Bylaws. Although the Inspector has the power to invalidate any ballot if the Outer Envelope does not comply with Paragraph I.3 of these Election and Voting Rules, any such Outer Envelope shall be counted toward meeting the quorum requirement. If the Inspector has not received enough Outer Envelopes to meet the quorum requirement by the close of the balloting period in an election where there are more candidates than seats available, then the balloting period may be extended for not more than 30 days from the close of the balloting period. If the balloting period is extended, the Association shall communicate such extension to the Members, and the quorum percentage shall thereafter be 15% of the voting power of the Members (per Article V, Section 5(a)(ii) of the Association's Bylaws).

3. The envelopes shall be opened, and the ballots shall be counted and tabulated, in public (i) at a properly noticed Membership meeting, or (ii) at a properly noticed Board meeting which may, but need not, be scheduled to take place concurrently with the Annual Membership Meeting.

4. Only the Inspector and individuals designated by the Inspector shall open the envelopes and count and tabulate the ballots. Without the Inspector's express consent, (i) no other person may touch any envelope, ballot, or other material used in connection with the election, and (ii) no person may copy and/or transmit (photographically, by video, digitally, or otherwise) any portion of any envelope, ballot, or other material used in connection with the election.

5. Members may witness the opening of the envelopes and the counting and tabulation of the ballots, so long as they observe all procedural rules established by the Inspector pursuant to Section 1, Paragraph K.3 of these Election and Voting Rules.

6. Each Outer Envelope received by the Inspector shall be treated as a Member present at a meeting for purposes of establishing quorum.

7. Write-in candidates are not permitted. Accordingly, votes for write-in candidates shall not be valid.

**M. Election Results.**

1. The candidates receiving the highest number of votes, up to the number of Directors to be elected, shall be elected.

2. The Inspector shall promptly report the tabulated election results to the Board. The results shall be recorded in the minutes of the next Board meeting (which can be accomplished by attaching the *Report of Inspector of Elections* as an exhibit to such minutes) and shall be made available for review by Members.

3. Within 15 days following the meeting at which the ballots were counted and tabulated, the Association shall notify the Members (via "general delivery"<sup>1</sup>) of the tabulated results of the election.

**N. Inspector of Elections Report.** Following the conclusion of the meeting at which the ballots are counted and tabulated, the Inspector shall prepare and submit to the Association a written "Report of Inspector of Elections." However, the failure of the Inspector to prepare or submit such a report shall not invalidate the election. The *Report of Inspector of Elections* shall include a statement that the Inspector performed all duties impartially, in good faith, to the best of the Inspector's ability, as expeditiously as was practical, and in a manner that protected the interest of all Members of the Association.

**O. Custody, Storage and Retention of Election Materials.**

1. After the Inspector reports the tabulated results of the election to the Association, the ballots, Outer Envelopes, *Voter List*,<sup>13</sup> proxies (if any), and *Candidate Registration List*<sup>14</sup> (if applicable) (collectively, the "Election Materials") shall be in the custody of the Inspector or at a location designated by the Inspector until the time allowed by California Civil Code Section 5145 for challenging the election has expired, at which time the Inspector shall transfer custody of the Election Materials to the Association.

2. In the event of a recount or other challenge to the election process, the Inspector shall, upon written request, make the ballots available for inspection and review by Members or their authorized representatives. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.<sup>15</sup>

3. After the transfer of custody of the Election Materials to the Association, the Election Materials shall be stored in a secure place for at least one year after the date of the meeting at which the ballots were counted and tabulated.

**Section 2**  
**Elections Regarding All Other Matters**

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This Section 2 shall apply to elections regarding (i) Assessments, (ii) removal of Directors, (iii) amendments to the governing documents, (iv) grants of exclusive use of Common Area property pursuant to California Civil Code Section 4600, and (v) any other matter that may be the subject of a vote of Association Members.

**A. Access to Association Media and Common Area Meeting Space.** The Association shall ensure that the legal requirements set forth in California Civil Code Section 5105(a)(1) and (2) are met by implementing the following:

**1. *Access to Association Media.***

a. If the Association provides access to Association media, newsletters, or internet websites during a campaign to any Member advocating a point of view for purposes that are reasonably related to the election, then all Members advocating a point of view for purposes that are reasonably related to the election, who comply with such pre-access

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<sup>13</sup> See Section 3, Paragraph D.2 of these Election and Voting Rules.

<sup>14</sup> See Section 3, Paragraph D.1 of these Election and Voting Rules.

<sup>15</sup> The signed Outer Envelopes may be inspected but may not be copied.

procedures as may be adopted by the Association, shall have equal access to the forum provided. The Association shall not edit or redact any content from these communications; however, the Association may include a statement specifying that the author of the communication, and not the Association, is responsible for the content of the communication, and that the Association was required by law to publish the communication verbatim, regardless of content.

b. Nothing in these Election and Voting Rules shall preclude the Association, during the balloting period, from communicating to the Members (via e-mail to all Members who have consented to receiving documents from the Association by e-mail, and in other ways):  
(i) reminders of the ongoing election, (ii) encouragement to return ballots prior to the close of the balloting period, (iii) instructions for obtaining a replacement ballot, and/or (iv) information on how and where to return completed ballots.

**2. Access to Common Area Meeting Space.** Access to Common Area meeting space, if any exists, shall be provided during a campaign to all Members advocating a point of view for purposes reasonably related to the election, at no cost, subject to procedural rules as may be adopted by the Association to assure orderly use of such meeting space.

**3. Campaign Signage.** Signage, flyers, and other campaign-related material shall not be posted in or on Association-owned or -controlled Common Area or Common Facilities or property unless expressly authorized by the Association. Campaign signs are permitted on private property (Lots owned by a Member) within the Tahoe Donner development with the Lot Owner's express permission. Any election-related signage must comply with the Town of Truckee's regulations that exist at the time of the election.

**B. Election Notification.** Not less than 30 days before the Association mails out the *Ballot Packets* (see Section 2, Paragraph D of these Election and Voting Rules) for any election for the removal of one or more Directors, the Association shall provide all of the following ("Election Notification") (via "general delivery"<sup>16</sup>):

1. The physical address(es) where ballots are to be returned by mail or handed to the Inspector;
2. The date and time by which ballots are to be returned by mail or handed to the Inspector;<sup>16</sup> and
3. The date, time, and location of the meeting at which the ballots are scheduled to be counted.

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<sup>16</sup> The balloting period may be extended - see Section 2, Paragraph C.3 and Section 2, Paragraph H of these Election and Voting Rules.

**C. Content of Ballots.** The official ballot form shall contain or state the following:

1. the identification of the matter that is the subject of a pending Member vote;
2. a statement that the initial balloting period will close at such time and on such date established by the Association, which shall be not less than 30 days from the date the *Ballot Packets* are mailed to the Members;
3. a statement that the balloting period may be extended; and
4. the internet website address where these Election and Voting Rules are posted, together with the following phrase (in at least 12-point font): "*The rules governing this election may be found here.*"<sup>10</sup>

**D. Content and Distribution of Ballot Packets.** Not less than 45 days prior to the date scheduled for the close of the initial balloting period, the Association shall prepare (or cause to be prepared) the *Ballot Packet*, and the Inspector shall mail (or cause to be mailed<sup>11</sup>) (via first-class U.S. mail, postage prepaid) one *Ballot Packet* to each Member. Each *Ballot Packet* shall contain all of the following:

1. one official ballot;
2. two sealable envelopes, a smaller envelope ("Inner Envelope") and a larger envelope ("Outer Envelope");
3. the *Secret Ballot Voting Instructions*;
4. if the election is regarding an amendment of a governing document, the text of the proposed amendment;
5. if the internet website address referred to in Section 2, Paragraph C.4 of these Election and Voting Rules is not included on the ballot, a copy of these Election and Voting Rules; and
6. a statement specifying that the Association was not permitted to edit or redact any content from the communications provided pursuant to Section 2, Paragraph A.1 of these Election and Voting Rules and thus the author of each such communication, and not the Association, is responsible for the content of such communication.

The Inner Envelope shall either (1) be totally blank or (2) contain such wording as may be specified or approved by the Inspector. There shall be no Member-identifying markings on the Inner Envelope. The Outer Envelope shall be pre-addressed in a manner specified or approved by the Inspector. The Outer Envelope shall contain, in the upper left hand corner, the voter's name and the Tahoe Donner address or Unit/Lot number that entitles the voter to vote and contains at least one blank line for the voter to sign the voter's name.

- E. **Rules Regarding Voting Using the Two-Envelope System.** See Section 1, Paragraph I of these Election and Voting Rules.
- F. **Balloting Period.** See Section 1, Paragraph J of these Election and Voting Rules.
- G. **Inspector of Elections.** See Section 1, Paragraph K of these Election and Voting Rules.
- H. **Opening of Envelopes / Counting and Tabulation of Ballots.** See Section 1, Paragraph L of these Election and Voting Rules. In the event that there are not enough Outer Envelopes to meet the quorum requirement, the Inspector shall not proceed with opening the Outer Envelopes, and shall notify the Board that a quorum has not been established. The balloting period may be extended. If the balloting period is extended, the Association shall communicate such extension to the Members.
- I. **Election Results.** See Section 1, Paragraph M of these Election and Voting Rules.
- J. **Inspector of Elections Report.** See Section 1, Paragraph N of these Election and Voting Rules.
- K. **Custody, Storage and Retention of Election Materials.** See Section 1, Paragraph O of these Election and Voting Rules.

### Section 3 General Election / Voting Provisions

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This Section 3 shall apply to all Member voting matters including, without limitation, elections regarding (i) Assessments, (ii) selection of Directors, (iii) removal of Directors, (iv) amendments to the governing documents and (v) grants of exclusive use of Common Area property pursuant to California Civil Code Section 4600.

- A. **Qualifications for Voting.** Only Members are entitled to voting rights.<sup>17</sup>
- B. **Voting Power of Memberships.** On each matter submitted to a vote of the Members, each Member shall be entitled to cast one ballot for each Lot owned by such Member.
  - 1. ***Director Elections.*** At each election of Directors, each Member may cast, with respect to each seat on the Board to be filled in such election, one vote for each such seat.
  - 2. ***All Other Matters.*** In all other matters, each Member may cast, with respect to each such matter, one vote for each Lot owned by such Member.

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<sup>17</sup> 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. The Association shall not deny a ballot to a person with general power of attorney for a Member. The ballot of a person with general power of attorney for a Member shall be counted if returned in a timely manner.



3. ***Lots Owned by More than One Person.*** If more than one person owns a Lot, any of the co-owners of such Lot shall be entitled to cast the ballot for such Lot. If more than one ballot is received for a Lot, only the first ballot received by the Inspector shall be counted.

4. ***Members Owning More than One Lot.*** If a Member owns more than one Lot, the Member must submit a separate Outer Envelope and ballot for each such Lot owned.

5. ***No Cumulative Voting.*** Cumulative voting is not permitted (see Article IV, Section 4(d) of the Association's Bylaws).

C. **Proxies.** The authenticity, validity and effect of proxies with respect to any Member voting matter shall be as set forth in the Association's Bylaws, as such Bylaws may be amended from time to time, and in California law (including without limitation California Corporations Code Section 7613 and California Civil Code Section 5130). The Association is not required to solicit proxies with respect to any Member voting matter. The Association's Bylaws do not permit proxy voting except for quorum purposes.<sup>18</sup>

D. **"Candidate Registration List" and "Voter List".** The Association shall maintain a "Candidate Registration List" and a "Voter List."

1. ***Candidate Registration List.*** The *Candidate Registration List* shall consist of the name and address of each Member whose *Candidacy Forms* were received by the Association prior to the Nomination Deadline.

2. ***Voter List.*** The *Voter List* shall include the name, voting power, and either the physical address of the voter's Lot, 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 Lot or if only the parcel number is used.<sup>19</sup>

The Association shall permit Members to verify the accuracy of their individual information on both lists at least 30 days before the ballots are distributed. The Association or the Member shall report any errors or omissions to either list to the Inspector who shall make the corrections within two business days.

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<sup>18</sup> See Article IV, Section 4(c) and Section 5 of the Association's Bylaws.

<sup>19</sup> The *Voter List* is a separate and different list than the general "membership list" available to Members under California Civil Code Section 5200. These Election and Voting Rules are not intended to govern Members' rights and responsibilities with respect to the general "membership list."

## EXHIBIT "A"

### REQUIRED INFORMATION FOR "CANDIDATE SOLICITATION ANNOUNCEMENT"

The *Candidate Solicitation Announcement* shall contain at least the following information:

1. The number of seats to be filled at the election.
2. To become a candidate, interested Members must notify the Association, in writing, that they would like to be a candidate, by submitting their completed *Candidacy Forms*.
3. The time and date by which the *Candidacy Forms* must be received by the Association ("Nomination Deadline"), and the method by, and the location at, which the *Candidacy Forms* must be received by the Association.
4. Notification that:
  - (a) only those Members who meet the qualifications for candidacy and election to the Board set forth in the *Candidate Solicitation Announcement* and whose valid *Candidacy Forms* are received by the Association prior to the Nomination Deadline will automatically be candidates,
  - (b) there will be no nominations from the floor at membership or Board meetings,
  - (c) votes for write-in candidates will not be valid, and
  - (d) it is each Member's responsibility to confirm that such Member's *Candidacy Forms* were received by the Association prior to the Nomination Deadline.
5. The qualifications for candidacy and election to the Board, as set forth in Section 1, Paragraph D of the Election and Voting Rules.
6. Candidates and Members advocating a point of view may, but are not required to, submit a *Director Election Statement* which meet the criteria set forth in Section 1, Paragraph B of the Election and Voting Rules.
7. The time and date by which the *Director Election Statement* must be received by the Association ("Director Election Statement Deadline"), and the method by, and the location at, which the *Director Election Statement* must be received by the Association.

8. Notification that:

(a) only those *Director Election Statements* that (i) are received by the Association prior to the Director Election Statement Deadline and (ii) clearly identify the Member-author by name will be treated as *Director Election Statements* under the Election and Voting Rules,

(b) by submitting a *Director Election Statement*, the author accepts full responsibility for the content thereof and agrees to indemnify the Association and its agents and representatives for any and all damage arising from or related to any such content,

(c) by submitting a *Director Election Statement* that contains one or more hotlinks, hyperlinks, quick response (QR) codes, or similar features ("Links"), the author (1) accepts full responsibility for the functionality, non-functionality, effect, and failure of any such Links, (2) agrees that the Association and its agents and representatives are not responsible for the functionality, non-functionality, effect, or failure of any such Links, (3) acknowledges, understands, accepts, and agrees that such Links will not be active in the versions of the *Director Election Statements* that the Association mails with the *Ballot Packets* or otherwise makes available, (4) releases the Association and its agents and representatives from any and all liability or damage arising from or related to any such Links or the functionality, non-functionality, effect, or failure of any such Links, and (5) agrees to indemnify the Association and its agents and representatives for any and all liability or damage arising from or related to any such Links or the functionality, non-functionality, effect, or failure of any such Links, and

(d) it is each Member's responsibility to confirm that such Member's *Director Election Statement* was received by the Association prior to the Director Election Statement Deadline.

EXHIBIT "B"

REQUIRED INFORMATION FOR "APPLICATION FOR CANDIDACY"

The *Application for Candidacy* shall contain at least the following:

1. A place for the Member to provide his/her full name, signature, and Tahoe Donner Unit/Lot # or Tahoe Donner Property Address.
2. The following statements:

I understand and acknowledge the following: I may, but am not required to, submit a *Director Election Statement*. My *Director Election Statement* is subject to all of the provisions of Section 1, Paragraph B of the Election and Voting Rules. It is my responsibility to confirm that (a) my *Candidacy Forms* were received by the Association by the Nomination Deadline and (b) my *Director Election Statement* was received by the Association by the Director Election Statement Deadline. I attest that as of the date I submit this *Application for Candidacy* to the Association, the information herein is true and I meet all of the qualifications for candidacy and election to the Board.

EXHIBIT "C"

SAMPLE "SECRET BALLOT VOTING INSTRUCTIONS"

**Tahoe Donner Association  
Secret Ballot Voting Instructions**

Dear Member:

Enclosed is your *Secret Ballot* to vote on the election of [two Directors] [one Director]. Please review these instructions prior to completing your *Secret Ballot*. Following these instructions better ensures that your *Secret Ballot* will be counted to determine the outcome of the election.

- A. Once you have reviewed the enclosed *Secret Ballot* and any supplemental materials regarding the election, please indicate your vote(s) on the *Secret Ballot* by putting an "X" or other distinguishing mark in the appropriate square(s).
- B. [Two Directors are] [One Director is] are being elected. Please do not vote for more than [two candidates] [one candidate] . **Please note: If you vote for more than [two candidates] [one candidate], none of your votes in the director election will be counted.** You are not required to vote for [two candidates] [one candidate]; you may vote for fewer if you wish.
- C. **DO NOT** write your name, address or Lot number on the *Secret Ballot*. **DONOT** sign your *Secret Ballot*.
- D. Once you have indicated your votes on your *Secret Ballot*, place the *Secret Ballot* into the plain smaller envelope (marked "Secret Ballot Envelope" or "Ballot Envelope"). Seal the smaller envelope. **DO NOT** sign or write anything on that envelope.
- E. Place that smaller envelope containing the completed *Secret Ballot* into the larger, Return Envelope that is pre-addressed to the Inspector of Elections. Seal the Return Envelope.
- F. **In the upper left hand corner on the front of the Return Envelope, sign your name** below where your name and your Tahoe Donner address or Unit/Lot number are listed. (Failure to sign the Return Envelope invalidates the enclosed *Secret Ballot*.)
- G. Deposit the Return Envelope (postage pre-paid) in the mail or hand-deliver it to the Inspector of Elections. **If you return your Return Envelope by mail, the envelope must be received by the Inspector of Elections no later than [time] on [date] . If you wish to submit your Return Envelope in person, you must do so at the [date] Annual Membership Meeting at [time and location] , before the time stated in the Agenda by which Return Envelopes must be submitted in person.**

- H. Once your *Secret Ballot* is cast, it cannot be revoked. A *Secret Ballot* is "cast" when the Return Envelope is received at the location designated by the Inspector of Elections.
- I. If you need a replacement *Secret Ballot*, please contact the Association's [contact person], [insert name], at [insert phone number].