**ELECTION RULES**

 **FRIENDLY VALLEY ASSOCIATION #5, INC.**

 **a California nonprofit corporation**

Adopted on 7/1/2020

**ARTICLE 1: DIRECTORS**

 1.1 Number and Term of Directors. The Board will consist of five (5) Directors with

staggered terms as set forth in the Bylaws. The term of each Director is either one (1) year or two
(2) years as also set forth in the Bylaws and until a qualified successor is elected to fill his/her
seat.

 1.2 Candidate and Director Qualifications. Resident Owners (Members)must meet the qualifications in the subsections hereafter to be eligible for nomination as a candidate for, or to serve as a Director on, the Board. Any dispute about whether any of these qualifications are met and, if not, whether
a nominee or Director must be disqualified from running for office or serving on the Board, must
be made at a properly noticed disciplinary hearing conducted at an executive session Board
meeting.

1. *Candidates Must Be Members.* The Association must disqualify the nomination of
a candidate who is not a Member of the Association at the time of nomination.

*b. Prior Ownership for One Year*.  The association may disqualify a nominee if that person has been a member of the association for less than one year.

1. *Member in Good Standing.* To be eligible for nomination and/or to serve on the
Board, the person or impersonal entity must not be delinquent by more than
sixty (60) days in the payment of any regular or special Assessment (following
proper notice, hearing, and a finding by the Board), except:

 i. A person may not be disqualified from nomination for nonpayment of
 fines, fines characterized as assessments, collection charges, late charges
 or costs levied by a third party.

ii A person may not be disqualified from nomination because the person has
 paid the regular or special assessment under protest.

 iii. A person may not be disqualified from nomination due to delinquent
 assessments if the person has entered into a payment plan with the
 Association pursuant to Civil Code §5665 and is fulfilling the terms of the
 payment plan.

d. *Co-Owners Eligible for only One Position.* To be eligible for nomination and/or
to serve on the Board, the person or impersonal entity must not have a record fee
simple ownership interest in a Separate Interest which is part of the Development
with another person or impersonal entity concurrently serving as a Director.

 Where two or more co-owners concurrently seek election to the Board, only the
first nomination will be effective.

1. *Criminal Conviction.* A person who has disclosed, or concerning whom the Board
has become aware, of a past criminal conviction that would, if the person is
elected, either prevent the Association from purchasing the fidelity bond coverage
required by Civil Code §5806, or any successor statute, or which conviction
would cause such coverage to be terminated, is ineligible for nomination to the
Board. Each nominee, at the time of nomination, shall disclose the existence of
any past criminal conviction and the details thereof, with sufficient details in
order to allow the Association to determine whether the criminal conviction will
prevent the Association from purchasing the required fidelity bond coverage.
2. *Internal Dispute Resolution.* Before any candidate for nomination or serving
Director may be disqualified, the person or impersonal entity must be provided
the opportunity to engage in internal dispute resolution as provided in the Davis-
Stirling Act.

 1.3 Impersonal Entities. If title to a Separate Interest 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 the purpose of candidacy or serving on the Board. The
designation by the impersonal legal entity must be in writing with documentation confirming
both the designation and its authority to do so.

 1.4 Trusts. If title is held in the name of one or more trustees, subject to a trust, a sole

trustee or one of several trustees is permitted to be a candidate for a position on the Board or to
serve on the Board subject to all qualifications and/or requirements of the Association's
governing documents and/or the law. The designation of one of several trustees must be in
writing with documentation confirming both the designation and the authority of the designator
to do so.

1.5 One Directorship Only. No current Director may hold multiple positions on the
Board. Any Director, whose term extends beyond a current election and who wishes to become a
candidate for that election, must first resign his/her seat on the Board. This rule does not apply to
a candidate whose term is expiring and who wishes to run for re-election.

**ARTICLE 2: INSPECTOR(S) OF ELECTION**

2.1 Selection.

 a. *Process.* **The selection of Inspectors of Election shall be in accordance with the Community Council Bylaws.**

 *b. Eligible Inspector(s).* The **Community Council** may select as Inspectors) of Election, any person or entity or subdivision of a business entity not currently employed or

under contract to the Association. Eligible Inspectors include, but are not limited
to:

1. Poll Workers. A volunteer poll worker with the County Registrar of
Voters;

 ii. Accountants. A licensee of the California Board of Accountancy, not
 under contract to the Association;

 iii. Notary Public. A notary public commissioned by the California Secretary
 of State;

 iv. Association Members. Members of the Association, but not: (i) members
 of the Board, (ii) candidates for the Board, (iii) persons related to a
 member of the Board, or (iv) persons related to a candidate for the Board;

1. Professional Inspectors. Third party persons or entities who provide
professional election services who contract with the Association solely to
serve as an Inspector of Election.

 2.2 Duties. Duties of Inspector(s) of Election include the following:

1. *Membership.* Determine the number of memberships entitled to vote and the
voting power of each.
2. *Validity of Proxies.* Determine the authenticity, validity and effect of proxies, if
any.

c. *Closing and Reopening of Polls.* Determine when the polls close, including any desired extensions of the voting period, and determine whether to reopen the polls
to allow Members to cast ballots if the polls were previously closed, all consistent
with the Association's other governing documents.

d. *Receive Ballots.* Receive all ballots. Once received by an Inspector of Election,
ballots are irrevocable.

 e. *Custody.* Sealed ballots, signed voter envelopes, voter list, proxies, and candidate
registration list shall at all times be in the custody of the Inspector(s) of Election
or at a location designated by the Inspector(s) until after the tabulation of the vote,
and until the time allowed by Civil Code §5145 for challenging the election has
expired, at which time custody shall be transferred to the Association. No person,
including a Member of the Association or an employee of the management
company is permitted to open or otherwise review any ballot prior to the time and
place at which the ballots are counted and tabulated. The Inspector(s) of Election
or the Inspector(s) appointee(s) may verify the Member's information and
signature on the outer envelope prior to the meeting at which ballots are tabulated.

1. *Challenges.* Hear and determine all challenges and questions in any way arising
out of or in connection with the right to vote. If there is a recount or other
challenge to the election process, the Inspector(s) of Election must make the
ballots available for inspection and review by an Association Member or the
Member's authorized representative upon written request. An Association
Member may authorize a representative to review the ballots on his or her behalf.
Any recount must be conducted in a manner that preserves the confidentiality of
the vote.
2. *Counting Ballots.* Count and tabulate all votes. All votes must be counted and
tabulated by the Inspector(s) of Election or the Inspector(s) appointee(s) in public
at a properly noticed open meeting of the Board of Directors or Members.
Candidates and Members may witness, but not interfere with the counting and
tabulation of the votes from at least two (2) feet away from the Inspector(s) and
his/her/their appointee( s).
3. *Appoint Assistants.* Appoint and oversee additional independent third parties to
verify signatures, and to count and tabulate votes as the Inspectors of Election
deem appropriate provided that such persons are independent third parties.

 i. *Results.* Determine the tabulated results of the election.

1. *Impartiality.* Perform all duties impartially, in good faith, to the best of the ability
of the Inspector(s) of Election, as expeditiously as is practical, and in a manner
that protects the interests of all Members of the Association. Any report made by
the inspector(s) of Election is *prima facie* evidence of the facts stated in the
report.
2. *Miscellaneous.* Perform any acts as may be proper to conduct the election with
fairness to all Members in accordance with the Civil Code, the Corporations
Code, the Association's governing documents, and all applicable rules of the
Association regarding the conduct of the election that are not in conflict with the
Civil Code.

 2.3 Removal. The **Community Council** has the power to remove any Inspector(s) who cease(s) to meet the required qualifications, are unable or unwilling to perform their duties, or for any other good reason, and to appoint one or more replacement Inspectors.

**ARTICLE 3: NOMINATIONS**

 3.1 Nomination Procedures and Notice. Prior to the election of Directors, the Board

must, by written notice to all Members, solicit nominees. The solicitation must include the
"Candidate and Director Qualifications" described above and provide general notice of the
procedure and deadline for submitting a nomination. The deadline must be at least thirty (30)
days after giving notice. Delivery of the solicitation must be given by individual notice, pursuant
to Civil Code §4040, if individual notice is requested by a Member before the solicitation is

given. Nominees must be listed as candidates on the ballot provided (i) they meet candidate and
Director qualifications and (ii) their nomination is made prior to the date and time set for the
close nominations.

 3.2 Self-Nomination. Any qualified person may nominate himself or herself for

election to the Board of Directors by submitting to the Association a written statement signed
and dated by the person nominating himself or herself. The Association must set a cut-off date
for the receipt of self-nomination statements, which date must be publicized in advance to the
Members.

 3.3 Floor Nominations and Write-In Candidates. Once nominations have been closed,

no write-in candidates are allowed on ballots and no floor nominations of candidates can be
made at the ballot-counting meeting.

**ARTICLE 4: BALLOTS**

 4.3 Pre-Ballot Notice. At least thirty (30) days before the ballots are distributed, the Association must provide general notice (or individual notice to a Member who requested it)
 which includes:

1. The date, time and physical address to mail or hand deliver ballots to the
Inspector(s);

 b. The date, time and location of the ballot counting meeting; and

 c. A list of candidates to appear on the ballots.

 4.4 Candidate List and Voter List. The Association must retain, as Association

election materials, both a candidate registration list and a voter list. The voter list must include
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.

 4.5 Verification of Lists. The Association must permit Members to verify the

accuracy of their individual information on the candidate registration list and the voter list at
least 30 days before the ballots are distributed. The Association or Member must report any
errors or omissions to either list to the Inspector(s) of Election who must make the corrections
within two business days. Reports of any errors or omissions should be made early enough to
allow for corrections to be made before the ballots are distributed.

 4.6 Secret Ballots. All ballots mailed or otherwise delivered to the membership must

include a double-envelope system and voting instructions for returning the ballots as provided
for in the Davis-Stirling Act, and must be mailed by first-class mail or delivered to every
Member entitled to vote at least thirty (30) days before the initial voting deadline. Ballots
seeking approval to amend or restate governing documents must be delivered to the Members
with the text of the proposed amendment.

1. *Signature.* Ballots do not require a signature. Ballots signed by Members remain
valid.
2. *Inner Envelope.* The Association will provide two envelopes. To preserve
secrecy, the ballot is to be placed within an inner envelope with no identifying
information. However, information written on the inner envelope by a Member
will not invalidate the ballot. The inner envelope containing the ballot is to be
placed into a second outer envelope containing identifying information.
3. *Outer Envelope.* In the upper left-hand comer of the outer envelope, the voting
Member must sign his/her name and indicate (print, type, etc.) his/her name and
the address entitling the voter to vote. The outer envelope must be addressed to
the Inspector(s) of Election.
4. *Delivery.* The outer envelope may be mailed to the address on the envelope or
delivered to a location specified by the Inspectors) of Election. The Member may
request a receipt for delivery.

 4.7 Election Rules. At least thirty (30) days before the voting deadline, the

Inspector(s) of Election must deliver, or cause to be delivered, the election operating rules to all
Members. Such rules may be delivered (1) by individual delivery (Civil Code §4040) or (2) by
posting the rules on an internet website and including the website address (URL) on the ballot
with the phrase, in at least 12-point font: "The rules governing this election may be found here:"

 4.8 Power of Attorney. The Association cannot deny a ballot to a person with general

power of attorney for a Resident Owner(Member). The ballot of a person with a general power of attorney must be counted if timely returned.

 4.9 Quorum by Ballot. Each ballot received by the inspector(s) of Election within a

properly completed outer envelope from a Resident Owner(Member) is deemed as a Resident Owner (Member) present at a meeting for purposes of establishing a quorum.

**ARTICLE 5: CAMPAIGNING**

 5.1 Access to Media.

 a. *Use of Association Resources.*

*i. Association Media.* Neither candidates nor Resident Owners(Members) may use the Association's newsletter, website, or any other Association media for
campaign purposes.

*ii. Membership List.* Candidates and Resident Owners(Members) have the right to request a copy of the Association's membership list for the purposes of distributing, at their own expense, materials which advocate a point of view reasonably related to an election, or as otherwise permitted by Civil Code §4515.
Candidates and Resident Owners(Members) also have the right to contact Resident Owners(Members) who have opted out of the membership list through the alternate means of communication permitted under California Civil Code §5220 for the purposes of distributing, at their own expense, materials which advocate a
point of view reasonably related to the election or as otherwise permitted
by Civil Code §4515.

b. *Exception.* If any candidate or Resident Owner(Member) is provided access to Association
newsletters, website, or other Association media during an election, or given
permission to post campaign material in the common area for purposes that are
reasonably related to that election, equal access must be provided to all candidates
and Resident Owners(Members). The access is limited to information relating to that election and cannot exclude those candidates and Resident Owners(Members) not endorsed by the Board. The Association is not permitted to edit or redact any content from these
communications but is permitted to include a statement that the candidate or
Resident Owner(Member), and not the Association, is responsible for that content. The Association and its Directors, officers, and agents are immune from liability for the content of those communications to the fullest extent provided by law.

 5.2 Use of Common Area During Election Campaign.

1. *Purpose.* Regarding any Association election, each candidate, Resident Owner(Member), or resident is permitted to use, if available, the Association's common area at no cost
for a purpose relating to Association elections as described in Civil Code §4515,
including to advocate a point of view reasonably related to the election.
2. *Reservation.* Each candidate, Resident Owner(Member), or resident, who wants to use the common area pursuant to Civil Code §§4515 or 5105 must make a reservation in advance
of the date and time requested. Such requests to use the common area are granted
on a first-come, first-served basis, provided that the area is not already reserved.
In order to assure fairness, each candidate may not reserve or use the common
area for more than two (2) hours on any particular date. In addition, each
candidate or Resident Owner(Member) is permitted to make only one (l) reservation per day to use the common area.

 5.3 No Use·of Association Funds for Campaign Purposes. Association funds may not

be used for campaign purposes in connection with any Board election and may not be used for campaign purposes in connection with any other Association election except to the extent necessary to comply with duties of the Association imposed by law. The Association is not permitted to include the photograph or prominently feature the name of any candidate on a communication from the Association or its Board. Directors, in their capacities as Resident Owner(Member), are permitted to advocate for the election or defeat of any issue or candidate on the ballot at their own expense and are not permitted to use Association funds for that purpose in any capacity.

 5.4 Improper Electioneering.

1. *Prohibited Activities.* In addition to any of the prohibitions under this article,
candidates, Resident Owners(Members), and residents, including their tenants, families, employees, agents, visitors, licensees, or servants are prohibited from engaging in any of the following activities:

i. Causing any printed campaign or other election related materials to be
placed upon or affixed to (1) residents' vehicles, (2) common area walls,
doors, or windows, (3) mail boxes or mail box structures, or (4) any
portion of the common area not expressly permitted in these rules without
prior authorization from the Board or management;

ii. Attempt to solicit either a vote or proxy from another Resident Owner(Member), or their power of attorney, through deceit, harassment, intimidation, improper
influence, undue coercion, or force;

iii. Attempt to prevent a Resident Owner(Member) from casting a vote or delegating their right to vote via proxy through deceit, harassment, intimidation, improper
influence, undue coercion, or force;

 iv. Interfere with the counting or tallying of votes;

1. Solicit the vote of a Resident Owner(Member) while in that Member's immediate presence or residence and during the time he or she knows the Resident Owner(Member) is voting;

 vi. Induce other Resident Owners(Members) to divert ballots away from the Inspector(s) of Elections; or

 vii. Interfere with any candidate's ability to distribute authorized campaign
materials.

1. *Report Violations.* Resident Owners(Members) are encouraged to report any electioneering violations they witness to the Board or management.
2. *Fines.* The Board is permitted to levy a fine of up to $100 for each violation of
this section.

**ARTICLE 6: CANVASSING AND PETITIONING**

 6.1 Generally. Canvassing and petitioning the Resident Owners(Members), the Board, and residents for purposes permitted in Civil Code §4515, by telephone and/or personal visits to private residences in the development, is limited to the hours of 9:00 a.m. until 9:00 p.m. However, any Resident Owner(Member) or resident who declines to be contacted on any issue, including for a purpose specified in Civil Code §4515, must not be contacted by telephone or personal visits thereafter.

 6.2 Impermissible Conduct. Nothing in this section permits a Resident Owner(Member) or resident to contact another Resident Owner(Member) or resident in a manner that constitutes (1) a breach of the Resident Owners(Members) or resident's quiet enjoyment or (2) a nuisance.

**ARTICLE 7: DISTRIBUTING INFORMATION**

 7.1 Generally. Reasonably distributing and circulating information for any purposes

 described by Civil Code §4515, is permitted and restricted as follows:

a. Resident Owners(Members) or residents may distribute or circulate printed information for purposes specified in Civil Code §4515 to other Resident Owners(Members) or residents by (1) mail, (2) placing printed materials under front doors, front door mats, and/or behind
screen doors, and/or (3) handing out printed material in the common area to
Resident Owners(Members) and residents willing to accept such materials. The handing out of materials in the common area is limited to the hours of 9:00 a.m. until 9:00 p.m.

b. Resident Owners(Members) and residents may not cause any printed materials, including those for any purposes specified in Civil Code §4515, to be placed upon or affixed to

 (1) residents' vehicles, (2) common area walls, doors, or windows, (3) mail boxes
or mail box structures, or (4) any portion of the common area not expressly

permitted in these rules without prior authorization from the Board or management.

1. Resident Owners(Members) and residents distributing and circulating printed materials permitted in these rules, such as those left at front doors or in other permissible locations in the development, are responsible to collect and discard any such materials that remain
uncollected after twenty-four (24) hours from distribution or circulation.

**ARTICLE 8: POST-ELECTION RESULTS**

 8.1 Breaking a Tie. In the event of a tie leaving the outcome of the election

 unresolved, the following will apply:

a. The Inspector(s) of Election, and any designees, will immediately conduct a
recount of the ballots. If there is a charge, the Association will bear the expense.
Resident Owners(Members) may observe the recount under the same conditions as the original ballot counting.

1. Following the immediate recount, if the tie remains, all other newly elected
Directors will immediately begin serving their terms. An incumbent Director
whose seat was tied will continue in office until a runoff election determines the
winner for his/her seat. Only candidates who tied for the seat will be in the runoff.
2. In lieu of a runoff, the tied candidates may mutually agree who shall be declared
the winner, including to agree that the winner may be decided by a coin toss or
the drawing of names by the Inspector(s) of Election. If the candidates involved
are unable to agree who shall serve within one (1) day of the election concerned,
the Association shall hold a run-off election.

8.2 Results of an Election. The tabulated results of the election must be announced
immediately after all the ballots have been counted. The tabulated results of the election must be
promptly reported to the Board of Directors and must be recorded in the minutes of the next
Board meeting. Within fifteen (15) days of the election, the Board must publicize the tabulated
results of the election in a communication directed to all Resident Owners(Members).

 8.3 Status of the Election Materials after the Election. The sealed ballots, signed voter

envelopes, voter list, proxies, and candidate registration list shall at all times be in the custody of
the Inspector(s) of Election or at a location designated by the Inspector(s) until after the
tabulation of the vote, and until the time allowed by Civil Code §5145 for challenging the
election has expired, at which time custody shall be transferred to the Association. 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 Resident Owner(Member) or the Resident Owners(Members) authorized representative. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.

8.4 Election Recount. Election recounts, other than the automatic recount following a
 tie leaving the outcome of an election unresolved, will be conducted as follows:

a. Any Resident Owner(Member) of the Association may demand a recount of the ballots provided (i) demand is made in writing to the Inspector(s) of Election within five (5) days
after the election results have been announced, and (ii) the Resident Owner(Member) pays in
advance for the estimated cost of the recount, which estimate will be provided by
the Inspector(s) of Election. Monies advanced by the Resident Owner(Member) must be refunded if the outcome of the election is changed by the recount.

b. The recount must be commenced within seven (7) days of the request for the
recount and must be done by or under the supervision of the Inspector(s) of
Election. If any Inspector of Election declines to perform the recount, the Board
may appoint a replacement Inspector of Election, using the criteria specified in
these rules and the replacement Inspector will assume custody of the ballots.

c. Any recount may be observed by Resident Owners(Members) of the Association. No election materials may be touched or handled by any person without the express consent
results of the Inspector(s) of Election and under the supervision of the Inspector(s). The results of the recount must be reported to the Board of Directors and must be
recorded in the minutes of the next Board meeting and reported to the membership.