



POLICY and PROCEDURE

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Board Approval Date

10/28/2017

Original P&P Date

6/11/1988

ELECTION & VOTING

PURPOSE

To establish procedures to be used for the nomination and election of members of the Pinebrook Board of Directors; voting on Special Assessments; and / or voting on changes to Pinebrook Articles of Incorporation, By-Laws or CC&Rs (Governing Documents), in compliance with applicable law.

POLICY

All nominations and balloting for the election of members of Pinebrook Homeowners' Association Board of Directors will be conducted in accordance with the procedures in this document. All voting on Special Assessments and changes to Pinebrook Governing Documents will be conducted in accordance with the procedures in this document.

APPLICABILITY

This document covers specific procedures to be used to comply with applicable California State laws covering:

- A. Special Assessments
- B. Nomination and election of members of Pinebrook Board of Directors
- C. Amendments to Pinebrook Governing Documents
- D. Grants of exclusive use of common area property pursuant to section 1363.07 of the Davis-Stirling Act

REFERENCES

- A. State of California Davis-Stirling Act, Article 2, Section 1363.03 "Elections and Meetings"; Section 1363.04 "Use of Association Funds for Campaign Purposes"; Section 1363.09 "Enforcement of Election and Meeting Requirements".

FORMS

- 2-1 Form-Voting Ballot
- 2-2 Form-Secret Ballot Envelope
- 2-3 Form-HOA Member Ballot Return Envelope
- 2-4 Form-Pinebrook Ballot Mailing Envelope

PROCEDURE

1. **Date of Board of Director Election / Annual Meeting**
 - A. The Annual Meeting of Pinebrook Homeowners' Association for the election of directors will be held on Labor Day Weekend each year at an exact time and location determined each year by the Board of Directors
 - B. All HOA Members in good standing will be notified of the election, other voting matters, date, times of Poll opening and closing, and location, at least 30 days in advance via first class mail to the address on record in the Pinebrook database.
 - C. The notification in (1.B) above will include the ballot for voting on all issues related to the election of directors, special assessment(s) and proposed amendments to governing documents.
 - D. In addition to (1.C) above, the notification in (1.B) above will include the following:



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- 1) Background resume of nominated election candidates.
 - 2) Proforma Operating Budget for the next fiscal year.
 - 3) R3 Fund summary showing accruals for the repair and replacement of all Pinebrook assets and plan for the next fiscal year.
- E. In addition to the items in (1.D) above, the notification may include:
- 1) Changed Policy & Procedures required by law to be submitted to HOA Members for review and comment.
 - 2) Full details of any proposed Special Assessment.
 - 3) Proposed amendments to Pinebrook Governing Documents.
2. **Election Committee**
- A. The Board of Directors has the sole responsibility to form and appoint members to the election committee. The Board of Directors will appoint a minimum of two (2) board members and one (1) HOA member at large to the Election Committee.
- B. The Board of Directors is responsible for appointing one (1) or three (3) HOA members at large to act as "Election Inspectors" as required by law. The Election Inspector(s) cannot be a current board member, cannot be related in any way to a current board member, cannot be an employee of the association, or be a current vendor or contractor to the association.
- C. The Election Committee is responsible for the following:
- 1) Review of current California State laws applicable to the election and voting process
 - 2) Propose to the Board of Directors any changes to this Policy and Procedure that are necessary for compliance to applicable laws.
 - 3) Act as a nominating committee to search, identify and nominate qualified HOA Members for the board of directors.
 - 4) Obtaining and publishing the resumes of those nominated.
 - 5) Preparation of Ballots for submittal to the Board of Directors for approval.
 - 6) Supervising the printing of ballots, secret ballot envelopes, HOA Member mailing envelopes and Pinebrook ballot mailing envelopes.
 - 7) Assembling of all of the information required in (1.C), (1.D) and (1.E) above to be included in the Pinebrook ballot mailing envelope.
 - 8) Upon conclusion of the voting process in (11.) below:
 - a. Obtain the final vote count and ballots from the Election Inspector(s).
 - b. Post the final vote count on the Pinebrook Town Hall bulletin board.
 - c. Time permitting, announce the vote results verbally to those HOA Members in attendance at the normal Labor Day Weekend Barbecue and Pot Luck dinner.
 - d. Prepare a written summary of the election / voting process and results, along with recommendations for procedure improvement to the board of directors
 - e. Prepare a Newsletter article announcing the results of the voting
 - f. Place the ballots in numerical order in secure storage to be held for a minimum of one (1) year.



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3. Election Inspectors

- A. Election Inspector(s) will be responsible for the following:
 - 1) Inspection of the ballots to ensure that the ballot is in compliance with applicable law.
 - 2) Insertion of the ballots in the Secret Ballot Envelope, so as to maintain required "secrecy".
 - 3) Insertion of the Secret Ballot Envelope, the HOA Member Return Envelope, and insertion of all other required materials for the mailing of the ballots into the Pinebrook Ballot Mailing Envelope.
 - 4) Accurately weighing the fully assembled Pinebrook Ballot Mailing Envelope to determine the amount of USPS postage that is required for First Class Mailing.
 - 5) Depositing all Pinebrook Ballot Mailing Envelopes with the USPS at least 35 days prior to the time of the election voting close.
 - 6) Receiving and validating all HOA Member Ballot Envelopes to insure that each envelope received is from a qualified HOA member by comparing to and checking off the HOA Member List.
 - 7) Securing all HOA Member Ballot Envelopes in a safe location until the specified election date and time.
 - 8) On the specified day and time, opening the HOA Member Ballot Return Envelope in accordance with the ballot processing procedure in (11.) below.
 - 9) Receiving all HOA Member Ballot Mailing Envelopes marked "I Choose to Vote by Proxy" and deliver that "Proxy Ballot" to the specified "Proxy Person" and supervise the voting of the proxy so as to maintain secrecy.
 - 10) Counting the ballots in accordance with the ballot counting procedure in (11.) below.
 - 11) Sorting the ballots in numerical order by ballot number
 - 12) After the final vote tally, handing the ballots and vote tally results to the Election Committee Chairman

4. HOA Member Voting Qualifications

- A. All Pinebrook Homeowner Association Members in good standing are eligible to vote.
- B. HOA Members qualify to vote one (1) vote for each Pinebrook Lot owned. Only one (1) vote regardless of the number of owners on a given lot

5. Cumulative Voting

- A. Pinebrook Homeowner Association By-Laws, Article II, Section 8, allow cumulative voting. The California Corporations Code states that any HOA Member must declare their intent to "cumulate votes" at any meeting prior to the mailing of the ballots. Once declared by one (1) HOA Member, all HOA Members have the right to cumulative voting. The California Corporations Code prohibits cumulative voting for "write-in candidates".
- B. Cumulative voting means that each HOA Member has as many votes as there are board of director vacancies; and that the HOA Member can cast their votes as they choose, e.g. all eligible votes for one candidate or any portion of votes (whole votes only) to other candidates.



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6. Proxy Voting by HOA Members

- A. Voting by Proxy is allowed, however instructing a specified Proxy Holder how to vote is not allowed.
- B. If a HOA Member chooses to have his or her ballot voted by Proxy, the name of the person, or "Board of Directors" is to be clearly printed on the outside of the HOA Member Ballot Mailing Envelope. In this case, the "blank" ballot is to be inserted into the Secret Ballot Envelope by the HOA Member. Nothing is to be written on the ballot itself.
- C. The person named to vote the Proxy Ballot must be present on the day of the voting and follow the instructions of the Election Inspector for voting.

7. Election Time-table

- A. Notice of an election, special assessment or change in governing documents must be 30 days in advance of the day of the voting, but not more that 90 days prior to the day of the voting
- B. Ballots must be mailed to HOA Members by July 26th of each year to assure compliance with the required 30 day notice period.
- C. Original Ballots and original HOA Member Ballot Mailing Envelopes must be received by the election inspectors prior to the designated Poll closing day and time in order to be counted.

8. Election Qualification Quorum

- A. Pinebrook By-Laws, Article VI, Section 8, defines the quorum for transaction of business as at least 20% of the HOA Members. There are 386 lots in Pinebrook and therefore the minimum number of 77 qualified ballots must be received to validate and election of directors and / or any other matter that must be brought before all HOA members as required by law.

9. Election of Officers

- A. In accordance with Pinebrook Homeowners' Association By-Laws, Article III, Section 2, the officers shall be elected annually by the Board of Directors at a meeting immediately following the election of directors. This is to be an open board meeting and nominations for each officer position may be made from anyone attending the meeting. Voting of nominated officers will be by board members only.
- B. Officers shall be President, Vice President, Treasurer and Secretary

10. Number of Directors & Term of Office

- A. The Articles of Incorporation Section VII states there will be 11 Board of Director members. The By Laws, Article II, Section 1 state there will be 7 Board of Director Members. Until further notice, the By Laws shall take precedence and there will be 7 Board of Director members.
- B. Directors are elected for a two-year term. A director may be elected for a second consecutive two-year term. Upon conclusion of the second two-year term, an individual cannot run for election to the board of directors for a two-year period.



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- C. Three (3) directors will be elected in odd numbered years, and four (4) directors will be elected in even numbered years.
- D. Term limit waiver. Due to scarcity of persons willing to run or accept the position of Board Director the present Board of Directors may appoint a person to fill an open board seat event that person has just completed two consecutive terms. This allows for creating a full Board when there is an “in term” opening or if elections do not fill the Board openings. It also allows for continuity and experience to be maintained on the Board for the benefit of The Association operations and property owners. The term limit restriction is maintained in regard to elections where a Board Member completing two consecutive term may not run for election without sitting out for one term (2 years).

11. Procedure for Ballot Preparation, Insertion and Mailing

- A. The ballot format will be in accordance with Form 2-1 of this document
 - 1) The ballot format will only show the specific candidates, special assessment options or proposed governing document changes applicable. That is, if there are no special assessments or proposed changes to governing documents, those voting options will be deleted from the ballots.
 - 2) The ballot design will be a single 8 ½” X 11” sheet of Buff 24 lb. bond paper, consecutively numbered in two places and perforated so that the HOA Member can remove a numbered ballot “receipt”.
 - 3) The ballot “receipt” will contain specific instructions on how to use the ballot for voting and how to insert the ballot into the Secret Ballot Envelope; and then how to insert the Secret Ballot Envelope into the HOA Member Return Mailing Envelope; and what information the HOA Member must provide on the exterior of the HOA Member Return Mailing Envelope.
 - 4) All Pinebrook Homeowner Member Lots are eligible for voting (none of the seven (7) Pinebrook Homeowner Association owned lots are eligible for voting on any matter).
 - 5) The Election Committee will design the ballot content for each election or voting requirement required by law and present to the Board of Directors for approval.
 - 6) The approved ballot design will then be printed via the Pinebrook computer on the blank, pre-numbered and perforated Buff color ballot stock. Numerical control of ballots will be maintained by the Election Inspector(s).
 - 7) The finished printed ballots will then be delivered to the Election Committee Chairman for custodial care until such time as the ballots are ready for insertion into the Secret Ballot Envelope.
 - 8) When the ballots are ready to be inserted into the Secret Ballot Envelopes, the Election Inspector(s) will prepare and insert the ballots as follows:
 - a. The Election Inspector(s) will fold the printed ballots so that nothing printed on the ballot can be seen after it has been folded.
 - b. Election Inspector(s) will insert the folded secret ballot into the Secret Ballot Envelope.
 - c. The Secret Ballot Envelopes, with the ballots inserted, will be shuffled so as to disturb the consecutive number of the ballots.
 - d. An Election Inspector will have an alphabetical list of Pinebrook HOA Members showing all of the lots that a Member owns. As the Secret Ballot Envelopes are inserted to the Pinebrook Ballot Mailing Envelope, the



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Inspector will make a check mark on the HOA Member List. One Secret Ballot Envelope for each lot the HOA Member owns will be inserted into the Pinebrook Ballot Mailing Envelope along with one HOA Member Return Envelope.

- e. An Election Inspector will insert the Secret Ballot Envelope(s), with the Ballot inside, along with the HOA Member Ballot Return Envelope and all of the other items specified in (1.D) above, into the Pinebrook Ballot Mailing Envelope, and then seal the envelope so that it is ready for mailing. Multiple lot owner Pinebrook Ballot Mailing Envelopes will be segregated from single lot owner envelopes so that they may be weighed for proper postage individually.
- f. The sealed Pinebrook Ballot Mailing envelopes must remain in the custody of the Election Inspector(s) until such time as they are deposited with the USPS.
- g. An Election Inspector will certify that all qualified HOA Members shown on the HOA Member List were mailed a Pinebrook Ballot Mailing Envelope by signing and dating the HOA Member List.
- h. The HOA Member List will then be given to the Election Committee Chairman for custodial care.

12. Voting Process - Ballot Control Upon Receipt and Vote Counting

- A. Only the HOA Member Ballot Mailing Envelopes will be received by the Election Inspector(s), and only the original Ballot will be counted (NO COPIES).
- B. Election Inspector(s) will control receipt of all ballots received by mail and all ballots received by direct delivery. HOA Member Ballot Return Envelopes will be delivered unopened directly to the Election Inspector(s) by the Pinebrook Office Manager.
- C. The Election Inspector(s) will maintain custody of the unopened HOA Member Ballot Return Envelopes until the designated day and time of the voting.
- D. During the designated day and time for the voting, the Election Inspector(s) will validate the HOA Member Ballot Return Envelope by checking off the list of qualified HOA Members used for Ballot mailing, using a different colored check mark for ballots received.
- E. Once the HOA Member Ballot Return Envelope has been validated, the envelope will be opened by an Election Inspector and, the Secret Ballot removed and deposited in the ballot box. The HOA Member Ballot Return Envelope will be placed in a tray or box for future reference.
- F. If the HOA Member Ballot Mailing Envelope designates a "Proxy", an Election Inspector will locate the Proxy Designee and supervise the voting of the Proxy Ballot.
- G. Ballot secrecy is to be maintained throughout ballot processing by the Election Inspector(s).
- H. The Election Inspector(s) will receive all HOA Member Ballot Return Envelopes hand delivered during the eligible voting hours, and process those ballot envelopes and ballots using the same procedure described above.
- I. When the Voting Polls close, the Election Inspector(s) will open the ballot box and tally the ballot count as follows:
 - 1) The Election Inspector(s) will be present when the ballot box is opened.



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- 2) The Election Inspector(s) will read each ballot's votes
 - 3) The Election Inspector(s) will re-confirm the vote count and tally the votes from each ballot on a progressive basis
 - 4) The Ballot counting session will be an open meeting in which HOA Members may be present to witness the ballot count.
- J. When the final vote is tallied, the Election Inspector(s) will make a copy of the vote tally and hand the copy to the Chairman of the Election Committee.
- K. The Election Committee Chairman will immediately post the Election / Voting results on the Town Hall bulletin board
- L. The Election Inspector(s) will put the ballots in numerical sequence and hand the ballots to the Election Committee Chairman for secure storage.

13. Election Process Special Provisions

- A. Pinebrook publishes Newsletters approximately 6 to 8 times a year. A Newsletter has traditionally been published in August, just before the elections. This Newsletter usually contains the resumes of each candidate running for the board of directors.
- B. Pinebrook's Newsletters have by tradition been "Politic" free.
- C. The Davis Stirling Act, Article 2, Section 1363.03 specifies that any candidate for office has the right to advocate their positions in "association media", "Newsletters", "Websites" etc., so long as those "positions" are reasonably related to the election.
- D. Pinebrook's Newsletters are limited in size and therefore there will be a limit on the size of any candidate article, if any HOA member in good standing chooses to include a Newsletter Article.

14. Granting Exclusive Use of Common Area

- A. Davis-Stirling Act Article 2, Section 1363.07 articulates law applicable to restrictions on granting "exclusive use of common areas" to any individual or entity.
- B. Whereas this provision of law is not "real world applicable" to Pinebrook, Pinebrook will fully comply with the law if a matter involving a "grant exclusive use of common area property" to an individual or entity ever arose.

15. Enforcement of Election and Meeting Requirements

- A. Davis-Stirling Act Article 2, Section 1363.09, establish enforcement provisions for violations of laws relating to Elections and Meetings. Pinebrook will comply with the law.

16. Use of Association Funds for Campaign Purposes

- A. Association funds shall not be used for campaign purposes in connection with any association board election.
- B. Association funds shall 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.

SUMMARY OF CHANGE FROM PREVIOUS ISSUE

Changed Title; Clarified number of Directors; Added paragraph 10.D.Term limit waiver.



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ELECTION BALLOT

12345

Issue # 1

“X” ONLY >>

FOR

AGAINST

Issue # 2

“X” ONLY >>

FOR

AGAINST

Fold Here

Candidate 1

<<< Write in Number of Votes *not* an “X”

Candidate 2

<<< Write in Number of Votes *not* an “X”

Candidate 3

<<< Write in Number of Votes *not* an “X”

Candidate 4

<<< Write in Number of Votes *not* an “X”

The number of votes shown in the Red Boxes can total no more than 4, see instructions

**This Ballot Must Be Received by the Pinebrook Election Inspector
Before 12:00 Noon, Saturday, September 2, 2006 to Be Counted**

REMOVE THE RECEIPT AT PERFORATION BELOW --- FOLLOW INSTRUCTIONS CAREFULLY

BALLOT RECEIPT AND INSTRUCTIONS

Receipt Number **12345**

1. Remove this receipt prior to inserting ballot into Secret Ballot Envelope
2. There is 1 ballot per lot owned **and a separate ballot must be used for each lot owned.**
3. Cumulative voting applies, you can vote 1 vote for each of the candidates above (4 votes); or cast all 4 votes for one candidate; or distribute the 4 votes in any manner—whole numbers only. Clearly write the “Number” of votes in the box opposite the candidates name—Not an “X”.
4. Upon completing the ballot, remove this receipt and fold the ballot at the line above so that the unprinted side of the ballot is on the “outside”, and insert in the Secret Ballot Envelope. Then insert the Secret Ballot Envelope into the Pinebrook HOA Member Ballot Return Envelope and seal the envelope.
5. Clearly write your Name and Pinebrook Lot Number (1 ballot for each lot per envelope) and sign your name on the outside of the HOA Member Ballot Return Envelope, affix the proper postage and then mail.
6. If you choose to name a “Proxy” to vote for you, a specific HOA Member or the “Board of Directors”, **do not make any entries on the ballot.** Check the “Proxy” vote box on the HOA Member Ballot Mailing Envelope and name the person or “Board of Directors” to vote your proxy. The ballot must be processed exactly as if you had voted. The blank ballot must be mailed to Pinebrook in the proper envelope. Do not send the ballot to the person named to vote your proxy. The person named must be in physical attendance during voting hours to receive the ballot from the Election Inspector.

Pinebrook Homeowners’ Association 2006 Ballot – Keep this Receipt for your Record of Voting



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ELECTION SECRET BALLOT ENVELOPE

Pinebrook Election and Voting
Secret Ballot Envelope

Insert ballot in this envelope
Only one Ballot per envelope

**DO NOT WRITE YOUR NAME OR LOT NUMBER
ON THIS ENVELOPE**

**Insert this Secret Ballot Envelope
into the HOA Member Ballot Return Envelope**

The above envelope is a Standard # 9 Envelope, 24# White Wove. This envelope will be printed using the Pinebrook computer printer. This envelope fits into a Standard # 10 Envelope—See Form 2-3 HOA Member Ballot Return Envelope



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ELECTION HOA MEMBER BALLOT RETURN ENVELOPE

From _____

HOA Member Return Envelope

Print Your Name Above

Print Your Pinebrook Lot # Above—
Note—only one lot per envelope

Sign Your Name Above

I choose to vote by Proxy.
Deliver my ballot to:

/the Person Above must be a Pinebrook HOA Member and must be present during the voting hours and prior to the close of voting.

**Election Inspector
Pinebrook Homeowners' Association
P. O. Box 718
Arnold, CA 95223-0042**

The above envelope is a Standard # 10 Envelope, 24# White Wove. This envelope will be ordered printed from a printing company. This envelope fits into a Standard 9" X 12" Envelope—See Form 2-4 Pinebrook Ballot Mailing Envelope



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ELECTION BALLOT MAILING ENVELOPE

This is a standard 9" X 12" envelope, White, self sealing with no printing

This is a label that will be affixed to a standard 9" X 12" White envelope. The label will have the Pinebrook Logo with return address on it.

The label will be addressed using the Pinebrook computer for each HOA Member.

John Smith
12345 Safe Street
Arnold, CA 95223

Election Voting Ballot
HOA Member Dues Invoice

This is a label that will be printed on the Pinebrook computer and affixed to the Pinebrook Ballot Mailing Envelope