



# **Architectural Review Committee Standards, Operating Rules and the Fine and Enforcement Policies**

**Updated as of May 2022**

## 1. *Scope*

The Architectural Review Committee (ARC) is established in accordance with Article VI of the CC&Rs and is composed of 3-5 members. Appointed ARC members serve at the pleasure of the Board. ARC membership is reviewed annually when new or re-elected HOA Board members are seated. Board President will serve as a liaison between the Architectural Committee and the Board.

The purpose of the ARC is to assist the Board in maintaining homeowner compliance with the CC&Rs, to encourage property maintenance and improvements so that homeowner values are maintained or enhanced, and to assure that homeowners may continue to enjoy the beneficial use of their properties.

These guidelines are not a complete listing of all applicable CC&R requirements. They are a combination of CC&R requirements and additional standards that have been adopted by the Board for use by the homeowners and by the ARC. The ARC or the Board may accept alternatives to these guidelines when they believe the alternative fulfills the intent of the CC&Rs. The ARC and the Board will not accept alternatives that are contrary to specific CC&R requirements or prohibitions.

Article VI of the CC&Rs prohibits the commencement of any improvement or alteration to a homeowner's building, Lot or landscaping without written approval of the ARC.

Following are some examples of the improvements or alterations that require ARC approval:

New buildings or structures, revisions or additions to buildings or structures, pools or spas, walls or fences, patios or patio covers, garage doors, detached structures including tool sheds and children's play houses,

Exterior modifications including changes to roofing, garage doors, home entrance doors, windows, skylights, awnings, wall coatings or coverings, and colors,

Hardscape changes including new or revised walks, walls, fences, driveways, new or revised hardscape finishes and colors,

Landscape changes including new or revised plants, shrubs, trees, ground cover, grading or sprinkler systems.

These guidelines were adopted by the Board after thirty day member commentary and supersede all previously adopted ARC guidelines.

## 2. *Architectural review committee procedures & processes*

The ARC has significant power by virtue of its function. It is important that this power is used to benefit the Stratford community and that the power is not abused or used to further a personal agenda. An ARC member must recuse him/herself from any ARC action that involves his/her property. An ARC member shall not request or accept favors from contractors that service Stratford at the Pacific Homeowners Association. An ARC member shall not solicit or accept any form of gratuity that would tend to affect, or give the appearance of affecting, his/her judgment in performing his/her duties. This will assure that there is no appearance of or actual conflict of interest associated with an ARC decision or recommendation.

One or more ARC members will discuss each ARC request with the homeowner and may meet with the homeowner to fully understand the request if the request is unclear.

ARC approval of a homeowner request requires a majority of the ARC membership. This means 2 of 3, 3 of 4, or 3 of 5, depending on whether there are 3, 4, or 5 ARC members.

Prior to each HOA Board meeting, the HOA Board members each receive a copy of recent homeowner requests and the resultant ARC recommendations and actions.

### **ROUTINE MAINTENANCE AND OTHER ITEMS THAT DO NOT REQUIRE ARC REVIEW**

- Landscape changes including over-seeding a lawn with winter rye, planting or replacing annual flowers, addition or replacement of shrubs up to 3 feet in height, trimming and removal of shrubs and trees.
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- Hardscape changes such as replacement of individual broken bricks and stones, grout repair, and localized stucco repair.
- Touch up painting using the exact same color.
- Changes below the fence line and not visible from the street or the adjoining property (e.g. decks, planters, plantings, surface scape in rear yards).
- Seasonal holiday decorations that are put up and taken down in a timely manner.
- Additions or changes to interior window coverings that show from the outside (e.g. addition/removal of shutters, blinds, drapes) do not require ARC review.

### ***ARC REQUEST***

An Architectural and Landscape Change Request form is required to initiate review of any activity that requires ARC approval. Submit the Change Request and any other required documents via e-mail (preferred) to or mail:

**Stratford at the Pacific HOA**  
**c/o Seabreeze Management Company**  
**1211 Puerta Del Sol, Suite 120, San Clemente, CA 92673 or**  
**E-Mail: [csteam@seabreezemgmt.com](mailto:csteam@seabreezemgmt.com) Phone: 949-661-7767**

The management company will forward the request to the ARC, the Board President and will retain one copy of the Change Request. The ARC will retain one copy and will return one copy with the approval/disapproval.

Specific reason(s) will be included with the returned Architectural & Landscape Change Request Disposition if the request is disapproved.

If a request is disapproved by the ARC, the homeowner may request to meet with the ARC in an effort to resolve the issue before raising the disagreement to the HOA Board by means of a formal Appeal.

### ***PLANS***

If you need Dana Point City approval for your project, submit two sets of plans to the ARC together with a completed Change Request form. The City of Dana Point requires an HOA approved set of plans before issuance of a building permit. If city approval is not required, submit one set of plans.

Article IX, Section 21 of the CC&Rs requires each owner to promptly comply with all laws, statutes, ordinances, rules and regulations of Federal, State or Municipal governments or authorities applicable to the use and occupancy of, and construction and maintenance of improvements upon the Lots and any additions thereto.

## ***PLAN REQUIREMENTS***

### **1. Plot plan**

A plot plan is required for all work.

Show all lot lines, including dimensions and angles, necessary to accurately describe your property and to prove that all proposed work is on your property.

If the proposed work is on common property (e.g. a boundary fence or wall) obtain and include written approval from the other co-owner(s) of the shared property. Use the Courtesy Neighbor Notification of Intended Architectural and Landscape Change form for this.

Show all buildings, structures, walls, setbacks, sidewalks, easements and street rights-of-way. Identify existing work and work proposed to be done.

Show all dimensions on work to be done including distances between existing and proposed work and distances between proposed work and property lines.

Show existing and proposed grading contours, surface water flow lines and finished grade elevations on all proposed grading changes or where new work will change existing grading contours or drainage.

Show proposed hardscape work and describe all materials, dimensions, textures and colors.

Show proposed landscape work and describe ground cover, plants, shrubs, trees and sprinkler systems. Show size of plants, shrubs and trees at maturity, species, and location of all proposed landscape work.

The ARC will accept a partial plot plan of only the portion of the lot where work is proposed if a field visit determines that the proposed work is on the homeowner's property and is clearly in compliance with the CC&Rs and the ARC guidelines. The ARC can not verify property boundaries and recommends that a California-licensed surveyor be contacted if property boundaries must be verified.

### **1. Roof Plan**

A roof plan is required for new structures, additions, or alterations if any roof line is changed.

Show all ridges, valleys, and slopes and describe the proposed roofing material and color(s).

### **2. Floor Plan**

A floor plan is required for new structures, additions or alterations.

Show all room uses and dimensions.

### **3. Elevations**

A plan showing elevations is required for new structures, additions or alterations to structures, and for fences and walls.

Show height dimensions and describe all finish materials, colors and textures of the proposed work.

#### 4. Samples

Be prepared to provide samples of materials proposed to be used for fences, walls, roofs, siding and other exterior surfaces. Provide paint chips for proposed exterior colors.

#### 6. Time

Work is to be commenced within 90 days after ARC approval and is to be completed by the date established between the ARC and the homeowner. Notify the ARC if work will not be completed as scheduled and request a time extension. Use the Change Request form for this. Failure to complete a project within the specified time is a basis for the ARC to require review and re-approval.

If the ARC fails to approve or disapprove a work request within 30 days of receipt by the ARC, approval will not be required and the conditions of CC&R section VI will be deemed to have been met. This time may be extended by the ARC if the ARC raised questions about the work and still has open/unanswered questions (deemed incomplete) about the project when the 30 days time limit is reached.

#### 7. Special Review by a Professional

With the Stratford at the Pacific Board of Directors approval, the ARC may employ a California-licensed architect to review a major project (e.g. new home or garage structure, addition that increases the floor area or building volume, or changes the roof line). This review is to assess the visual compatibility of the new structure with the character of the Stratford development. If such a review is approved by the Board of Directors, the property owner shall reimburse Stratford for the actual review fee charged by the professional architect.

#### 8. Review Timing

The ARC will typically meet twice per month (e.g. 15<sup>th</sup> and 30<sup>th</sup>) to review and approve/disapprove any pending requests. The ARC will work with a homeowner to expedite the approval process in the case of a structural failure (e.g. leaking roof, inoperable garage door).

### *3. Building, structure and hardscape CC&R requirements and ARC guidelines*

#### 1. Setbacks

Setbacks from the front, sides and back of the home and the garage shall be in accordance with the City of Dana Point zoning requirements.

#### 2. Prohibited Uses

In accordance with CC&Rs section IX, no Lot shall be used for any purpose other than one single family residence and associated garage. No Lot shall be subdivided.

#### 3. Buildings

In accordance with CC&Rs section IX, no building shall be erected, altered, placed or permitted to remain on any Lot other than one single family dwelling not to exceed two stories in height and one garage for not more than three cars.

#### 4. Garages

Garages shall be used for parking vehicles and for storage. Garages shall not be converted to living or recreational spaces.

5. Rooftop Appliances

Installation of items such as antennae, attic fans, and sky lights require ARC approval.

6. Fences and Walls

Fences and walls shall not exceed six feet in height when measured from the finish grade on the low side to the top of the fence or wall. Fences and walls should not extend further forward than the front wall of the home. This is intended to maintain an open area in front of all homes.

7. Retaining Walls

Retaining walls shall not exceed 30 inches in height where they extend forward and beyond the front wall of the home.

8. Patios, Sun Shades and Gazebos

Structures should have roofs that are flat or that are aligned to continue or compliment the architectural features of the dwelling. Materials and colors should be the same as or should compliment the materials and colors used on the home. Location of the structure shall not project into the setbacks specified by the city zoning code for Stratford.

9. Sundecks and Balconies

Balconies or sundecks shall be attached to the home and must have direct access from the dwelling. Balconies or sundecks may have solid decks. Balconies facing either the street front or the common areas should have all sides designed as solid enclosures with siding that matches the material used on the home. A three (3) inch gap between the deck and the balcony may be left open to provide for water run off. Balconies and sundecks should not compromise the privacy of homeowners in adjoining Lots.

10. Garages

Replacement garage doors require ARC approval of the door design and color. Garage doors are to match or compliment the colors of the home.

11. Paved Areas

All exterior paved areas shall be concrete, exposed aggregate concrete, brick, stone or other masonry products.

12. Mailboxes

Mailboxes shall be of a design approved by the U.S. Post Office. Mailbox posts shall be as designed and provided by the developer or, if different, as approved by the ARC.

13. Awnings

Awnings shall be attached to the residence and made from a durable, weatherproof fabric. Aluminum or fiberglass awnings will not be approved. Awnings should be of a single color that is harmonious with paint colors on the home.

14. Flagpoles

Flagpoles shall not be higher than the roof peak of the residence located on the property. Flagpoles should be painted to match colors on the residence.

15. Sports Equipment

Basketball backboards attached to the front of the home or to the part of the roof visible from the street are not allowed. Sports cages such as golf driving ranges and baseball batting enclosures should not be visible from the street. Portable basketball backboards, skate ramps,

tether ball poles and similar sports equipment are allowed, but must be stored out of the view of the community and not allowed to be left in front of the house when not in physical use.

16. Radio, Television and Satellite Antennae and Other Rooftop Appliances Radio, television and satellite antennae and other rooftop appliances are to be located so as not to be visible from the street in front of the residence. Visibility from common areas and other Lots should be minimized.

17. Reflective (e.g. aluminized) window coverings are not allowed.

18. Storage Containers

Storage Containers are for temporary use only. Architectural approval is required for storage containers that will be stored for more than 14 days. 30 days after the close of escrow, storage containers must be removed from the driveway. For construction and remodeling, the storage containers must be removed within 14 days from the completion of the project.

#### *4. Building, structure and hardscape materials and finish*

##### BUILDINGS

###### Exterior Walls

Materials allowed for exterior cover of the home and garage shall be stucco, wood or wood-like siding, brick, architectural concrete block, or combinations of these materials. The exterior cover material shall be continuous and consistent on all elevations in order to achieve a uniform and complete architectural appearance.

###### Window and Door Openings

Window openings within wall surfaces shall be consistent and shall produce an ordered arrangement and appearance within the total wall surface of an elevation. Door openings shall follow the same design approach. The appearance of windows and doors shall be consistent with the architectural features of the structure. Windows shall have wood, vinyl, or aluminum frames.

###### Fascia

The fascia shall be wood or wood-like material and shall be painted or stained to match the existing residence trim color.

###### Roofs

New roofs or re-roofing of the home and garage requires both ARC approval and a City of Dana Point building permit.

Roofing materials shall be real or simulated shakes or shingles. Acceptable roofing materials include simulated wood shakes made from tile, stone, cement, composites or metals. The shakes shall have (1) a texture that gives the appearance of wood grain, (2) a surface that is dull and does not appear shiny or reflective, (3) a style that gives the appearance of a shake, and (4) an edge thickness that is similar to a wood shake. The laying pattern shall be uniform and architecturally harmonious with the home. Roofing colors shall be harmonious with paint or stain colors used on the home.

Different roofing materials on different parts of the visible roof are not acceptable.

###### Roof Vents

All roof vents shall be colored to match the dominant roofing color.

###### Chimney and Other Flashing

All chimney flashing shall be colored to match either the chimney or the dominant roofing color. Other flashing (e.g. over a window) is to be colored to match the surface being flashed.

## WALLS AND FENCES

Wood fences and decorative cement block walls were originally provided with different phases of the Stratford community. Some low cement block retaining walls were also provided by the original builder.

Acceptable materials for walls and fences include (1) wood or wood-like fences with top and bottom rails and with posts spaced uniformly at eight feet or less, (2) architectural (decorative) concrete block, (3) stucco or stone applied over poured concrete or construction concrete blocks, and (4) brick. Mixtures of these materials will be considered (e.g. brick posts and wood/wood-like sections). Decorative wood fences (e.g. pickets), wrought iron fences, and glass or non-ribbed Plexiglas barriers for wind or sound protection will be considered on an individual basis.

Fences and walls are to be colored to match colors on the home or are to be harmonious with the home colors.

Materials that will not be approved for fences or walls include (1) chain link and other woven wire products, (2) aluminum or other sheet metal products, (3) fiberglass panels, (4) reed, rope or other fibrous materials, (5) glass block, and (6) grape stake.

## PATIOS, SUNSHADES, BALCONIES, SUNDECKS, AND GAZEBOS

The structural framework and the overhead roof members shall be wood or wood-like material. Overhead steel structural members may be used if they are covered with wood or wood-like material. Vertical steel structural members may be used if they are covered with wood or wood-like material, brick, stone or other masonry products.

Materials that will not be approved include sheet metal, fiberglass panels, cloth, and asphalt shingles.

## POOLS, SPAS, AND OTHER WATER FEATURES

Accessory equipment shall be located and/or sound-attenuated to meet the City of Dana Point sound level requirements and shall not create a nuisance for nearby Lots or common areas.

Solar heating systems are subject to ARC review for blending with attached structure and for least obtrusive location.

Fountains, streams and other water features that show from the street or are located in the front of the house require ARC approval.

## EXTERIOR COLORS

Colors that are to be changed require review and approval by the ARC. Repainting with the same colors also requires ARC approval.

Touch up painting (e.g. scuffs, scratches, nail heads) with the same color does not require ARC notification or approval.

Painting the inside (does not show from the street) of fences and walls does not require ARC approval.

Colors are to be architecturally harmonious with the design of the residence and are to be compatible with the existing hardscape and roofing colors. The selected colors for stucco and trim should all be from either a cool color palette or a warm color palette.



## *5. Landscaping guidelines*

Each Lot in Stratford shall be landscaped with a reasonable and attractive combination of lawn, ground cover plants, shrubs and trees. Lawns and plantings shall be kept neatly trimmed and cultivated and shall be free of trash, weeds and other unsightly material.

The planting of trees/shrubs that would exceed 25 feet at maturity requires ARC approval. Fruit and nut bearing trees will not be approved for front yards. Trees and shrubs should be kept trimmed so that they do not overhang other Lots, the common areas, or the public sidewalks and streets.

Major changes to lawns or plantings that exceed 50 square feet require ARC approval.

Changes to or the addition of outdoor lighting systems requires ARC approval. Note that installation of 110 volt lighting systems may also require a City of Dana Point building permit.

Artificial turf is an acceptable substitute for lawn or other groundcovers. A product sample and specification sheet is required with an ARC application for approval of artificial turf. Artificial turf is subject to the same maintenance and appearance guides as is a natural lawn.

The following guidelines are to assure durable, realistic looking artificial turf installations. The selected product should:

- Be at least a two-color product,
- Be UV (sunlight) resistant to provide color retention,
- Have a heavy pile (e.g. 40-60 ounces/square yard weight range),
- Be a non-toxic product that does not contain lead or other heavy metals,
- Have a water permeable backing to provide adequate drainage,
- Be resistant to water absorption to avoid discoloration and absorption of odors (pet urine, feces),
- Use infill materials (if required) that are non-toxic and non-water absorbing,
- Be applied over a weed barrier and an aggregate base that provides proper drainage and gives proper support to the artificial turf product,
- Not be installed over an existing lawn.

At the time of this writing (November 2010) nylon and rubber turf products may not meet all of these guidelines.

## *5. CONSTRUCTION CONTROLS*

Major constructions projects such as an exterior appearance remodel, addition of a room or rooms, and addition of a pool or water feature are by their nature long-duration and disruptive to neighbors. Measures to minimize the impact on surrounding properties shall be included in the plans for all major construction projects.

Items that must be considered to mitigate the impact on the Stratford community and immediate neighbors include, but are not limited to:

1. Impaired street access and parking,
2. Noise from construction equipment and work,
3. Airborne dust control from excavation and masonry cutting,
4. Impaired street cleaning,
5. Unsightly accumulation of construction rubble and trash,
6. Location of portable toilets if used,
7. Impact of extended work hours and days on immediate neighbors,

8. Control of cement, sand, gravel, dirt, and other construction products to prevent washing into the street and the storm drains,
9. Project duration,
10. Control of hazardous materials.

### *7. ARC forms*

Forms used by home owners and by the ARC are attached.

# Stratford at the Pacific Homeowners Association

## Architectural and Landscape Change Request

Homeowner Name: \_\_\_\_\_

Property Address: \_\_\_\_\_

Billing Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

In accordance with CC&Rs, Article VI, Section 3 approval for a change may take up to 30 days. A complete application with a clear description of the request will likely result in a much faster turn around time.

**To avoid a \$200 penalty for each exterior construction improvement, DO NOT begin work prior to receiving committee approval.**

Planned Start Date: \_\_\_\_\_ Planned Completion Date: \_\_\_\_\_

### Brief Description of Requested Changes:

- Painting Home:** Include paint chips and name of color for all that are applicable
  - o Siding Color: \_\_\_\_\_
  - o Trim Color: \_\_\_\_\_
  - o Stucco Color: \_\_\_\_\_
  - o Door Colors: Front Door: \_\_\_\_\_ Garage Door: \_\_\_\_\_
  - o Fence: \_\_\_\_\_
- Landscaping:** Include plot plans, dimensions and type of plants to be used and samples of hardscape materials such as brick/stones, as well as a brief description of the work to be done:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- Roof:** Describe roofing material and color: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- Structure Changes:** Include plan showing elevations and floor plan. Materials to be utilized for roofs siding, and other exterior structures. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- Fences:** Include location, height, materials, color. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- Storage Containers:** Start Date: \_\_\_\_\_ End Date: \_\_\_\_\_

**Other:** Provide clear description and sample of any colors or materials to be used. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Send (preferably by e-mail) to:  
**Stratford at the Pacific HOA**  
**c/o Seabreeze Management Company**  
**1211 Puerta Del Sol, Suite 120, San Clemente, CA 92673**  
**E-Mail: [csteam@seabreezgmt.com](mailto:csteam@seabreezgmt.com) Phone: 949-661-7767**

- Attach additional pages of information (e.g. product brochures, paint chips, photos, drawings, plans) to fully describe your planned changes.
  - For complete construction plans, please submit a PDF file via e-mail instead of traditional paper if possible
  - Send two (2) copies of plans if a City of Dana Point Building Permit is required.
  - Your approved Architectural and Landscape Change Request will be valid until the approved completion date shown on the Architectural and Landscape Change Request Disposition. Failure to complete the approved work by the approved completion date requires that you request and extension. Use this form to request and extension.
- If your plans change as work progresses, you are required to submit an updated Architectural and Landscaping Change Request form for ARC review and approval.**

Homeowner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**For use by ARC Only**

ARC Member: \_\_\_\_\_ Date: \_\_\_\_\_ Approved \_\_\_ Disapproved \_\_\_

ARC Member: \_\_\_\_\_ Date: \_\_\_\_\_ Approved \_\_\_ Disapproved \_\_\_

ARC Member: \_\_\_\_\_ Date: \_\_\_\_\_ Approved \_\_\_ Disapproved \_\_\_

ARC Member: \_\_\_\_\_ Date: \_\_\_\_\_ Approved \_\_\_ Disapproved \_\_\_

ARC Member: \_\_\_\_\_ Date: \_\_\_\_\_ Approved \_\_\_ Disapproved \_\_\_

**Comments by ARC:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## **Operating Rules**

### **30 day rental restriction:**

An owner may rent his or her Unit, provided that the Unit is rented for a term greater than thirty (30) days.

### **Trash:**

CC&R's Article IX, Section 17, "All garbage and trash shall be placed and kept in sanitary, covered containers. In no event shall such containers be maintained to be visible from neighboring Lots except when set out for a reasonable period of time before and after scheduled trash pick-up times. No owner of a Lot shall permit any thing or condition to exist upon his Lot which shall induce, breed or harbor infectious plant or other diseases, or noxious insects." Trash containers are to be placed out no earlier than 3:00 p.m. the day before trash collection and must be removed by 9:00 p.m. the day of trash collection.

## **Friendly reminders from the CC&Rs**

### **Maintenance:**

CC&R's Article IX, Section 13, "Each owner of a Lot shall keep all shrubs, trees, grass and plantings of every kind on his Lot, including planted areas between adjacent sidewalks and the street curb, if any, neatly trimmed, properly cultivated and free of trash, weeds and other unsightly material."

### **Construction Hours:**

CC&Rs Article IX, Section 21 "Each owner to promptly comply with all laws, statutes, ordinances, rules and regulations of Federal, State or Municipal governments or authorities applicable to the use and occupancy of, and construction and maintenance of improvements upon the Lots and any additions thereto."

**City of Dana Point Construction Hours: Mondays through Saturdays, between 7:00 a.m. and 8:00 p.m.** Work is not permitted on Sundays and Federal Holidays. Homeowners are encouraged to contact the City's Code Enforcement 949.248.3500.

### **Business or Commercial Activity:**

CC&R's Article IX, Section 15 "No business of any kind shall be permitted or conducted on the Properties, excepting for the business of Declarant in completing the construction of residences on the property and of disposing the same by sale, lease or otherwise, and excepting professional and administrative occupations without external evidence thereof which are incidental to the primary purposes of the buildings as single family residences.

# **STRATFORD AT THE PACIFIC ELECTION RULES**

(ADOPTED MAY 2022)

## **A. GENERAL**

1. Except for the meeting to count the votes, an election may be conducted entirely by mail unless otherwise specified in the governing documents.
2. A quorum shall be required only if so stated in the governing documents or other provisions of law. If a quorum is required by the governing documents, each ballot received by the inspector of elections shall be treated as a member present at a meeting for purposes of establishing a quorum.
3. This association shall allow for cumulative voting using the secret ballot procedures, if cumulative voting is provided for in the governing documents.
4. Notwithstanding any other law or provision of the governing documents, elections regarding assessments legally requiring a vote, election and removal of directors, amendments to the governing documents, or the grant of exclusive use of common area shall be held by secret ballot. This also governs an election on any topic that is expressly identified in these election operating rules.

## **B. BOARD OF DIRECTORS**

1. This association shall hold an election for a seat on the board of directors at the expiration of the corresponding director's term and at least once every four years.
2. Directors shall not be required to be elected if the governing documents provide that one member from each separate interest is a director.
3. Notwithstanding any other law, this association may provide for the nomination of candidates from the floor of membership meetings or nomination by any other manner. Those rules may permit write-in candidates for ballots.

## **C. CAMPAIGN RULES**

1. Any candidate or member advocating a point of view shall be provided access to association media, newsletters, or internet websites during a campaign, for purposes that are reasonably related to that election. Equal access shall be provided to all candidates and members advocating a point of view, including those not endorsed by the board, for purposes that are reasonably related to the election. This association shall not edit or redact any content from these communications, but may include a statement specifying that the candidate or member, and not this association, is responsible for that content.
2. All candidates, including those who are not incumbents, and *all* members advocating a point of view, including those not endorsed by the board, shall have access to the common area meeting space, if any exists, during a campaign, at no cost, for purposes reasonably related to the election.

3. This association shall specify all of the following:
  - a. The qualifications for candidates for the board and any other elected position, and procedures for the nomination of candidates, consistent with the governing documents. A nomination or election procedure shall not be deemed reasonable if it disallows any member from nominating themselves for election to the board.
  - b. The voting power of each membership, the authenticity, validity, and effect of proxies, and the voting period for elections, including the times at which polls will open and close, consistent with the governing documents.
  - c. A method of selecting one or three independent third parties as inspector or inspectors of elections utilizing one of the following methods:
    - i. Appointment of the inspector or inspectors by the board.
    - ii. Election of the inspector or inspectors by the members of this association. u1.  
  
Any other method for selecting the inspector or inspectors.
4. This association shall retain both a candidate registration list and a voter list. The voter list shall 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. This association shall permit members to verify the accuracy of their individual information on both lists at least 30 days before the ballots are distributed. This association or the member shall report any errors or omissions to either list to the inspector or inspectors who shall make the corrections within two business days.

#### **D. BALLOT REQUIREMENTS**

- I. This association shall not deny a ballot to any of the following:
  - a. A member for any reason other than not being a member at the time when ballots are distributed.
  - b. A person with general power of attorney for a member. The ballot shall be counted if returned in a timely manner.
2. This association is required to have the inspector or inspectors of elections to deliver by first-class mail, or cause to be delivered, at least 30 days before an election, to each member both of the following documents:
  - a. The ballot or ballots.
  - b. Two preaddressed envelopes with instructions on how to return ballots.
  - c. A copy of these election operating rules.
3. Delivery of these election operating rules may be accomplished by either of the following methods:
  - a. Posting the election operating rules to an internet website and including the corresponding internet website address on the ballot together with the phrase, in at least 12-point font: "The rules governing this election may be found here:"

- b. Individual delivery.
- 4. In an election to approve an amendment of the governing documents, the text of the proposed amendment shall be delivered to the members with the ballot.
- 5. In order to preserve confidentiality, a voter may not be identified by name, address, or lot, parcel, or unit number on the ballot. This association shall use as a model those procedures used by California counties for ensuring confidentiality of vote by mail ballots, including all of the following:
  - a. The ballot itself is not signed by the voter, but is inserted into an envelope that is sealed. This envelope is inserted into a second envelope that is sealed. In the upper left-hand corner of the second envelope, the voter shall sign the voter's name, indicate the voter's name, and indicate the address or separate interest identifier that entitles the voter to vote.
  - b. The second envelope is addressed to the inspector or inspectors of elections, who will be tallying the votes. The envelope may be mailed or delivered by hand to a location specified by the inspector or inspectors of elections. The member may request a receipt for delivery.

#### **E. DISQUALIFICATION OF NOMINEES**

- 1. This association shall permit all candidates to run if nominated, except as follows:
  - a. This association shall disqualify a person from nomination as a candidate if the person is not a member of this association at the time of the nomination. This does not restrict a developer from making a nomination of a nonmember candidate consistent with the voting power of the developer, as set forth in the regulations of the Department of Real Estate and this association's governing documents.
- 2. A person is to be disqualified from nomination as a candidate for any of the following reasons:
  - a. The nominee for a board seat, or a director during their board tenure, is not current in the payment of regular and special assessments, which are consumer debts subject to validation. If this association requires a nominee to be current in the payment of regular and special assessments, it shall *also* require a director to be current in the payment of regular and special assessments.
  - b. If the nominee, if elected, would be serving on the board at the same time as another person who holds a joint ownership interest in the same separate interest parcel as the person and the other person is either properly nominated for the current election or an incumbent director.
  - c. If the nominee has been a member of this association for less than one year.
  - d. If the nominee discloses, or if this association is aware or becomes aware of, a past criminal conviction that would, if the person was elected, either prevent this association from purchasing fidelity bond coverage or terminate this association's existing fidelity bond coverage.
- 3. This association shall not disqualify a nominee for any of the following reasons:
  - a. The nominee's nonpayment of fines, fines renamed as assessments, collection charges, late charges, or costs levied by a third party.
  - b. The nominee's nonpayment of assessments where the nominee has not been provided the



opportunity to engage in internal dispute resolution.

c. The nominee's failure to be current in payment of regular and special assessments where either of the following circumstances is true:

1. The nominee has paid the regular or special assessment under protest

11. The nominee has entered into a payment plan.

## **F. INSPECTOR OF ELECTIONS**

1. This association shall select an independent third party or parties as an inspector of elections. The number of inspectors of elections shall be one or three. If there are three inspectors of elections, the decision or act of a majority shall be effective in all respects as the decision or act of all.
2. 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. An independent third party may be a member, but may not be a director or a candidate for director or be related to a director or to a candidate for director. 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 this association for any compensable services other than serving as an inspector of elections.
3. The inspector or inspectors of elections shall do all of the following:
  - a. Determine the number of memberships entitled to vote and the voting power of each.
  - b. Determine the authenticity, validity, and effect of proxies, if any.
  - c. Receive ballots.
  - d. Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.
  - e. Count and tabulate all votes.
  - f. Determine when the polls shall close, consistent with the governing documents.
  - g. Determine the tabulated results of the election.
  - h. Perform any acts as may be proper to conduct the election with fairness to all members in accordance with these operating rules, the Corporations Code, and all applicable rules of this association regarding the conduct of the election that are not in conflict with these election operating rules.
4. An inspector of elections shall perform all duties impartially, in good faith, to the best of the inspector of election's ability, as expeditiously as is practical, and in a manner that protects the interest of all members of this association. Any report made by the inspector or inspectors of elections is prima facie evidence of the facts stated in the report.
5. The sealed ballots, signed voter envelopes, voter list, proxies, and candidate registration list shall at all times be in the custody of the inspector or inspectors of elections or at a location designated by the inspector or inspectors until after the tabulation of the vote, and until the time allowed for challenging the election has expired, at which time custody shall be transferred to this association. If there is a recount or other challenge to the election process, the inspector or inspectors of elections shall, upon written request, make the ballots available for inspection and

review by an association member or the member's authorized representative. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.

6. An inspector is allowed to appoint and oversee additional persons to verify signatures and to count and tabulate votes as the inspector or inspectors deem appropriate, provided that the persons are independent third parties.

#### **G. NOTICE**

1. This association shall provide general notice of the procedure and deadline for submitting a nomination at least 30 days before any deadline for submitting a nomination. Individual notice shall be delivered if individual notice is requested by a member.
2. This association shall provide general notice of all of the following at least 30 days before the ballots are distributed:
  - a. The date and time by which, and the physical address where, ballots are to be returned by mail or handed to the inspector or inspectors of elections.
  - b. The date, time, and location of the meeting at which ballots will be counted.
  - c. The list of all candidates' names that will appear on the ballot.
  - d. Individual notice of the above paragraphs shall be delivered if individual notice is requested by a member.

#### **H. CIVIL ACTIONS**

- I. Members of an association may bring a civil action for declaratory or equitable relief for a violation by this association, including, but not limited to, injunctive relief, restitution, or a combination thereof, within one year of the date that the inspector or inspectors of elections notifies the board and membership of the election results or the cause of action accrues, whichever is later. If a member establishes, by a preponderance of the evidence, that the election procedures of this article, or the adoption of and adherence to rules were not followed, a court shall void any results of the election unless this association establishes, by a preponderance of the evidence, that this association's noncompliance with this article or the election operating rules did not affect the results of the election. The findings of the court shall be stated in writing as part of the record.
2. A member who prevails in a civil action to enforce the member's rights pursuant to this article shall be entitled to reasonable attorney's fees and court costs, and the court may impose a civil penalty of up to five hundred dollars (\$500) for each violation, except that each identical violation shall be subject to only one penalty if the violation affects each member of this association equally. A prevailing association shall not recover any costs, unless the court finds the action to be frivolous, unreasonable, or without foundation. If a member prevails in a civil action brought in small claims court, the member shall be awarded court costs and reasonable attorney's fees incurred for consulting an attorney in connection with this civil action.
3. A cause of action may be brought in either the superior court or, if the amount of the demand does not exceed the jurisdictional amount of the small claims court, in small claims court.
4. This association may not file a civil action regarding a dispute in which the member has requested dispute resolution unless this association has acted in good faith in the internal dispute resolution procedures after a member invokes those procedures.

## **I. ELECTION BY ACCLAMATION**

1. This association may consider qualified candidates elected by acclamation if the following specified conditions are met:
  - a. The association must have held a regular election for the directors in the last three (3) years.
  - b. The association must mail (or email if consented to) notice to members at least 90 days before the deadline to submit nominations, which contains the following information:
    - i. The number of board positions that will be filled at the election.
    - ii. The deadline for submitting nominations.
    - iii. The manner in which nominations can be submitted.
    - iv. A statement informing members that if, at the close of the time period for making nominations, there are the same number or fewer qualified candidates as there are board positions to be filled, then the board of directors may, after voting to do so, seat the qualified candidates by acclamation without balloting.
  - c. The association must mail (or email if consented to) a reminder notice 7 to 30 days before the deadline to submit nominations that contains all the information in the notice above, plus a list of qualified candidates names existing as of the reminder mailing date.
  - d. Within 7 business days (Mon-Fri excluding certain holidays) of receiving a nomination, the association must both:
    - i. Respond back to the member in writing or electronically acknowledging the nomination, and
    - ii. In writing or electronically, state to the nominee whether they are qualified or not. Candidates may be disqualified for delinquent assessments, joint ownership with a Board member serving at the same time, owned less than a year or a criminal conviction prevents fidelity bond coverage.
2. After completing these steps, the Board, at a properly noticed Board meeting, must vote as an agenda item the approval of the qualified candidates' election by acclamation. The agenda must state each candidate name.

## **J. WRITE-IN CANDIDATES FOR ELECTIONS**

1. This association will not allow for write-in candidates on ballots for elections

A NOMINEE FOR THE BOARD OF DIRECTORS:

MUST BE:

A

MEMBER

OR

SOMEONE NOMINATED BY THE DEVELOPER, IF THE DEVELOPER HAS VOTING POWER

OR

A NATURAL PERSON APPOINTED BY AN ENTITY HOLDING A SEPARATE INTEREST

**MAY NOT BE:**

A NON-MEMBER, EXCEPT:

SOMEONE NOMINATED BY THE DEVELOPER (IF THE DEVELOPER HAS VOTING POWER), OR

A NATURAL PERSON APPOINTED BY AN ENTITY HOLDING A SEPARATE INTEREST

**MAY NOT BE:**

A CONVICTED FELON IF:

THE CONVICTION WAS WITHIN THE

LAST 20 YEARS AND

THE CONVICTION INVOLVED BRIBERY, EMBEZZLEMENT, EXTORTION, THEFT OF MONEY, PERJURY, OR CONSPIRACY TO COMMIT ANY OF THOSE CRIMES

**MAY BE DISQUALIFIED THROUGH BY-LAWS OR ELECTION RULES IF:**

THE NOMINEE IS NOT CURRENT IN PAYING REGULAR

ASSESSMENTS AND

HAS BEEN GIVEN THE OPPORTUNITY TO ENGAGE IN INTERNAL DISPUTE

RESOLUTION AND

THE ASSOCIATION REQUIRES INCUMBENT DIRECTORS TO BE CURRENT ON THE PAYMENT OF REGULAR

ASSESSMENTS

OR

THE NOMINEE IS A JOINT OWNER OF AN INTEREST WITH SOMEONE WHO IS ALREADY ON THE BOARD

OR

THE NOMINEE HAS BEEN A MEMBER FOR LESS THAN A YEAR

OR

THE NOMINEE HAS BEEN CONVICTED OF A CRIME THAT WOULD PREVENT THE  
ASSOCIATION FROM OBTAINING FIDELITY BOND COVERAGE

**HOWEVER**

A NOMINEE ACCUSED OF NOT PAYING REGULAR ASSESSEMENTS MAY NOT BE  
DISQUALIFIED:

FOR NOT PAYING FINES, FINES RENAMED AS ASSESSMENTS, COLLECTION CHARGES, LATE  
CHARGES, OR COSTS LEVIED BY A THIRD PARTY (SUCH AS ATTORNEYS' FEES)

OR

IF THE NOMINEE HAS PAID THE REGULAR ASSESSMENT

UNDER PROTEST OR

IF THE NOMINEE HAS ENTERED INTO A

PAYMENT PLAN OR

IF THE NOMINEE HAS NOT BEEN OFFERED ON OPPORTUNITY TO ENGAGE IN INTERNAL  
DISPUTE RESOLUTION

The Davis-Stirling Common Interest Development Act (Civil Code § 4000 *et seq.*) already has provisions governing the operation of a residential common interest development, and the respective rights and duties of a homeowners' association and its members. Senate Bill 323, which was enacted on October 12, 2019 and becomes effective January 1, 2020, amends Civil Code §§ 5100, 5105, 5110, 5115, 5125, 5145, and 5200, and adds § 5910.1, all related to rules and regulations for the operation of elections in residential common interest developments.

Changes to existing law include the following:

- Requires that elections be held at least once every four years.
- Prohibits the HOA from amending the rules less than 90 days prior to an election.
- Requires the voter list to include the name, voting power, and either the physical address of the separate interest, the parcel number, or both. The mailing address must also be included on the voter list if it is different from the physical address of the separate interest, or if only the parcel number is used.
- Requires both the candidate registration list and voter list to be available for verification of the accuracy of the information at least 30 days before ballots are distributed.
- Requires the HOA to report any errors in the candidate registration list or voter list to the inspector of elections, who is required to make corrections within two business days.
- Requires the HOA to provide general notice of the procedure and deadline for submitting a nomination at least 30 days before the deadline for submitting nominations.
- Requires the HOA to provide general notice of the following at least 30 days before ballots are distributed: (a) the date and time by which ballots must be returned by mail or by hand delivery to the inspector of elections, and the physical address where they need to be delivered; (b) the date, time, and location of the meeting at which ballots will be counted; and (c) the list of all the candidates' names that will be on the ballot.
- Requires the inspector of elections to deliver the following to each member at least 30 days before the election: (a) the ballot(s); and (b) a copy of the election rules (by either individual delivery, or posting on an internet website).
- Requires sealed ballots to be retained until the tabulation of votes.
- Requires election materials, including the signed voter envelopes, proxies, candidate registration list and voter list, to be retained for one year.
- Requires the following to be retained for inspection and copying: returned ballots; signed voter envelopes; list of voter names, parcel numbers, and voters to whom ballots were to be sent; proxies; candidate registration list
- Requires that the HOA disqualify any nominee for the board of governors who is not a member of the HOA at the time of nomination, except that: (a) a non-member may be nominated by a developer with a voting interest, and (b) a non-member who is a natural person may be appointed by an entity which holds a separate interest in the community.

- Requires that the HOA disqualify any nominee convicted in the last 20 years of a felony involving bribery, embezzlement, extortion or theft of money, perjury, or conspiracy to commit any of those felonies.
- Allows the HOA to adopt bylaws or election operating rules that would disqualify a candidate if (a) the nominee is not current in the payment of assessments (also allows the HOA to require a sitting director to be current on the payment of regular assessments); or (b) the nominee would be serving on the board with someone who jointly owns the same separate interest as the nominee; or (c) the person has been a member of the HOA for less than one year. However, a nominee may not be disqualified for the nonpayment of fines, fines renamed as assessments, collection charges, late charges, or costs levied by a third party. Furthermore, a nominee may not be disqualified if the person has paid an assessment under protest, or has entered into a payment plan, or has not been offered an opportunity to engage in internal dispute resolution.
- Prohibits denial of a ballot to a member for any reason other than not being a member at the time ballots are distributed (nonpayment of assessments is not a reason to deny a ballot)
- Prohibits the inspector of elections from being employed by or under contract to the HOA.
- Prohibits the denial of a ballot to a person with general power of attorney for a member, and requires the ballot of a person with general power of attorney for a member to be counted if timely returned.
- Allows a cause of action for violation of member election rules to be brought in Superior Court, or in small claims court if the demand does not exceed the jurisdictional amount of small claims court.
- Requires a court to void the results of an election upon a finding that the election procedures were not followed, unless the HOA establishes by a preponderance of the evidence that the failure to follow the rules was (1) unintentional and (2) did not affect the results of the election.
- Requires a member to be awarded court costs and reasonable attorney's fees incurred if the member prevails in a civil action, or for the costs of consulting an attorney if the action is in small claims court.
- Prohibits an HOA from filing a civil action regarding a dispute in which a member has requested internal dispute resolution, unless the HOA has participated in the IDR procedure.

## **FINE AND ENFORCEMENT POLICIES**

### **Architectural Non-Submittal Fine Policy:**

If any owner begins modifications to the exterior of their home without first submitting for and receiving Architectural Review approval, a \$200.00 penalty will be imposed, for each exterior construction improvement started without approval. CC&Rs, Article VI, Section 1, "No building, fence, wall or other structure shall be commenced, erected, painted, refurbished, remodeled or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design, location and color in relation to surrounding structures and topography by an Architectural Committee."

### **Non-Compliance of the Governing Documents Enforcement Policy:**

\*First Notice: Courtesy Reminder Notice - Homeowner is given 30 days to resolve the compliance issue. First notice will not be issued if the violation is for exterior modifications without approval, homeowner to be immediately called to a Hearing.

\*Second Notice: Violation Notice - Homeowner is given 30 days to resolve the compliance issue (failure to comply will result in a Hearing).

\*Third Notice: Hearing Notice - Homeowner is given an opportunity to attend a Hearing not less than ten (10) days, nor more than thirty (30) days from the date of said notice.

### **Fine Schedule:**

Following a disciplinary Hearing, the Board shall have the right to levy a fine or fines, in accordance with the following fine schedule:

First Offense Uncorrected - \$100.00

Second Offense Uncorrected - \$150.00

Each succeeding offense thereafter uncorrected - \$250.00 until resolution is reached.

### **Architectural Non-Submittal Fine Policy:**

*\$200.00 for each exterior construction improvement started without approval.*

### **Notice of Decision:**

The Board shall notify the Owner in writing within fifteen (15) days after the Hearing of the Board's findings and decisions.



\*If the violation is a recurring offense (i.e., same problem, same parties within 12 month period) the courtesy notice and violation notice and waiting period are waived and the owner will be immediately called to a Hearing. A recurring offense shall subject the owner to a repeat offense level fine.

It is our hope that with receipt of the first notice, that these issues are addressed timely with no need for further action. Your cooperation with the community guidelines and governing documents is greatly appreciated in an effort to protect and enhance property values in our community. Thank you.