



# Whitney Oaks Community Association

September 2018 Newsletter



## **BOARD OF DIRECTORS**

**Natalie Trost - President**  
**Bob Jones – Vice President**  
**Richard Campbell - CFO**  
**Rosalie Hayman - Secretary**  
**Rick Jordan - Director**



The Management Trust

**P.O. Box 1459**  
**Folsom, CA 95763**  
**Phone: 985-3633**

**AFTER HOURS EMERGENCY**  
**866-324-3704**

## **ASSOCIATION MANAGEMENT STAFF**

**MANAGER:**  
Melissa Bell: Extension #5125  
[melissa.bell@managementtrust.com](mailto:melissa.bell@managementtrust.com)

**ASSISTANT MANAGER:**  
Mikki Cooper: Extension #5129  
[mikki.cooper@managementtrust.com](mailto:mikki.cooper@managementtrust.com)

## **ARCHITECTURAL APPLICATIONS:**

Mail plans to The Management Trust  
Questions? Please contact  
Gwendolyn Rogers #5112  
[gwendolyn.rogers@managementtrust.com](mailto:gwendolyn.rogers@managementtrust.com)

**ACCOUNTING**  
Accounting Inquiries: (916) 985-3633  
Pay-By-Phone: Extension #8050  
[nc-accounting@managementtrust.com](mailto:nc-accounting@managementtrust.com)

**PALADIN SECURITY**  
Patrol Hours: 8:00PM-5:00AM  
24 Hour Dispatch: 916-331-3175

**ASSOCIATION WEBSITE**  
[www.whitneyoaks.net](http://www.whitneyoaks.net)



This year we have four (4) candidates running for two (2) open seats. Candidate night is to provide the residents of Whitney Oaks the opportunity to meet the candidates running for the Board of Directors and to hear their position on issues facing the community. This year the following candidates will be on the ballot. *Candidates are listed in alphabetical order*

***Nathan Garcin   Rosalie Hayman   Bob Jones   Adam Rehfeldt***

Meet the Candidates night is scheduled to be held at 2801 Springfield,

**Wednesday, October 10, 2018 @ 7:00 PM**

This is a perfect time to meet the people you are voting in to govern your community. Questions will be in written format only from the audience and will be handed to each candidate for a brief response. *Refreshments will be served.*

An election package including a ballot, and two pre-addressed envelopes (with instructions on how to return your ballot), will be mailed to the Whitney Oaks membership following Candidates Night. Ballots are mailed 30-days prior to the deadline for voting and in accordance with Civil Code §5115. *Associations do not need to allow additional days for mail delivery, this is called the mailbox rule. Under the mailbox rule, delivery is deemed complete upon deposit of the election package.* If you do not receive a ballot please contact management so we may send you another package. There is only one ballot per household and you can only vote for the number of seats available. In others words, in this election, there are four (4) members running for two (2) seats, that means you may only cast two (2) votes. Once a secret ballot is received by the inspector of elections, it shall be irrevocable. If a member casts a ballot, the ballot cannot be retrieved to be changed or revoked.

We are here to help. Have questions about returning your ballot? Please contact Melissa Bell.

The annual Meeting of the Membership will be held on **Monday, November 12<sup>th</sup> @ 7:00 PM.** Location of the meeting is 2801 Springfield.



## Adopting and Amending Rules



An association's "operating rules" (Rules & Regulations) are regulations adopted by the board that apply "generally to the management and operation of the common interest development or the conduct of the business and affairs of the association." This is under Civil Code §4340(a).

Unlike the association's declaration ("CC&Rs"), operating rules are not contained in a recorded document and generally do not require membership approval for their adoption, amendment or repeal by the board.

The following identifies specific subject areas where a rule or regulation adopted by the board would constitute an operating rule. Those subject areas include:

- Use of the common area or of an exclusive use common area (i.e., clubhouse rules, parking rules, etc.).
- Use of a separate interest, including any aesthetic or architectural standards that govern alteration of a separate interest.
- Member discipline, including any schedule of monetary penalties (fines) for violations of the governing documents and any procedure for the imposition of monetary penalties.
- Any standards for delinquent assessment payment plans.
- Any procedures adopted by the association for resolution of disputes (i.e., an IDR policy).
- Any procedures for reviewing and approving a proposed physical change to a member's separate interest or to the common area (i.e., an architectural application and approval process).
- Procedures for elections.

**Enclosed, please find five (5) proposed rules for board adoption. Please review the rules and send any comments you may have for consideration, in writing, to management on or before November 23, 2018. The Board intends to decide adopting the rules at the December 5, 2018 board meeting.**

## Political Campaign Signs



For some, the political season can be a stressful time full of undesirable campaign ads, signs, differing opinions, etc. For others, it is a time to fulfill one's duty to their country by voting, or staying politically active. It is the same during the Association's political season.

Whitney Oaks allows political signs on one's own Lot so long as the signs are removed within forty-eight (48) hours of the election for which the signs were displayed. Please remember that no signs of any kind shall be posted on common areas.

## Vehicle Privacy Gates

Living behind privacy gates has personal advantages for everyone. Gates can also be challenging for visitors entering into the community. It is very risky for anyone to attempt to "rush" the gate. By rushing the gate, you are trying to enter/exit the community (usually following another vehicle) before the gates have fully closed. This can potentially lead to a costly expense for the repair of the gate and vehicle. Please advise your visitors how to safely enter/exit the gates.

The metal control panel outside each gate is called the "Key Pad/Call Box Directory" and it has two different functions, the first of which will open the gate after the visitor inputs # plus 4-digit gate code. The other way a visitor can enter the gate is by calling the resident who is listed on the Call Box Directory. After entering the residents code, they will receive a call. The resident will press 9 and can then remotely open the gate.

You should make a point to confirm your name is listed in the Call Box Directory. Press the Control Box Alpha keys, scroll to your name, you will find the 3-digit call code assigned to that household.



If you need a remote fob opener, pedestrian gate key, need a temporary event gate code created, or report a problem with the vehicle or pedestrian gate, please contact Whitney Oaks Assistant Manager, Mikki Cooper ([mikki.cooper@managementtrust.com](mailto:mikki.cooper@managementtrust.com)) or 916-985-3633 x5129.



WHITNEY OAKS

**WHITNEY OAKS COMMUNITY ASSOCIATION  
Candidate Night**

**October 10, 2018  
7:00 P.M.**

*At The Gables  
2801 Springfield Drive, Rocklin CA*

**Agenda**

- 1. Call to Order**
- 2. Introductions**
- 3. Candidate Statements**
- 4. Homeowner Questions**
- 5. Candidate Closing Statements**
- 6. Adjourn**

## WHITNEY OAKS COMMUNITY ASSOCIATION

**TO:** All Members  
**FROM:** Board of Directors  
**RE:** **NOTICE OF PROPOSED RULE CHANGE**

Adoption of Operating Rules:

- Smoking/Marijuana Cultivation Rules
- Clothesline Rule
- Drone Use Rules
- Vehicle Gate Remote Access Policy

**DATE:** October 3, 2018

The purpose of this written notice is to inform you that the Association's Board of Directors is considering adopting Operating Rules, as required by California law. This notice is being given to all members in accordance with California Civil Code Section 4360.

1. **Text of the Proposed Rule Change:** The proposed Operating Rules are enclosed.

2. **Purpose and Effect of the Proposed Rule Change:** The purpose of the proposed Operating Rules is designed to set forth a standard set of parameters within, which residents can live in a positive atmosphere of health and safety. The effects of the proposed Operating Rules include: (a) guidelines (b) use restrictions and parameters.

3. **Notice of Meeting of the Board of Directors to Consider Adoption of the Proposed Rule Change:** The Board of Directors will hold a meeting to consider the adoption of the proposed Operating Rules as indicated below. The Board of Directors intends to make its decision at this meeting following consideration of any comments made by the members.

Date: **December 5, 2018**

Time: **6:00 PM**

Place: **2801 Springfield, The Oaks Building**

**WHITNEY OAKS Community ASSOCIATION SMOKING AND  
MARIJUANA CULTIVATION RULES**

- A. In accordance with Sections 4.4 and 12.2 of First Restated Declaration of Covenants, Conditions and Restrictions of Whitney Oaks Community Association(the "Declaration"), Owners, Residents, tenants, and guests within Whitney Oaks Community Association (the "Development") shall be prohibited from engaging in noxious, harmful, unlawful, or offensive activities:

***Section 4.4***

*No noxious, harmful, unlawful, or offensive activities shall be conducted upon or within any part of the Development, nor shall anything be done thereon which may be or become a nuisance, or cause unreasonable embarrassment, disturbance, or annoyance to any Residents of the Development, or which shall in any way interfere with their use of the Common Area and facilities thereon or the use and enjoyment of their Lots or Residences. Without limiting any of the foregoing, no Resident shall permit noise, including but not limited to the barking of dogs or excessively loud music, to emanate from the Resident's Lot, which would unreasonably disturb another Resident's enjoyment of his or her Lot or of the Common Area. Excessive noise levels may be determined at the sole discretion of the Board which may, but shall not be obligated to, rely on the standards established in applicable County or City codes regulating such matters. Nothing in this Section shall be construed to limit the Association's ability to discharge its duties in accordance with the Governing Documents or otherwise manage the Development.*

***Section 12.2***

*Any violation of a state, municipal or local law, ordinance or regulation pertaining to the ownership, occupancy, or use of any Property within the Development is hereby declared to be a violation of this Declaration and subject to any and all of the enforcement procedures set forth herein.*

- B. The Board has determined that smoke emanating from the smoking of cigarettes, marijuana and/or other smoke-producing objects, including but not limited to cigars, vaping devices, pipes, and hookahs, on certain portions of the Development has produced a noxious and/or seriously offensive interference with Residents' right to quiet enjoyment of their Lots based upon the medically confirmed harm of secondhand smoke.
- C. The Board has further determined that the cultivation of marijuana, whether for personal use or otherwise, is still a Federal crime, and constitutes a noxious and/or seriously offensive interference with Residents' right to quiet enjoyment of their Lots based upon the odor emanating from marijuana plants, as well as the criminal activity associated with marijuana cultivation, including the increased likelihood of burglaries and assaults.



**THE BOARD HEREBY APPROVES THESE SMOKING AND MARIJUANA CULTIVATION RULES:**

**1. Smoking in Common Area and on Private Streets**

- a. No Owner, Resident, tenant, or guest shall be permitted to smoke cigarettes, marijuana and/or other smoke-producing objects, including but not limited to cigars, vaping devices, pipes, and hookahs, on any portion of the Common Area or on the Private Streets within the Development. This includes smoking, vaping or other inhaled method using tobacco, marijuana or any other substance.

**2. Smoking on Lots**

- a. No Owner, Resident, tenant, or guest shall be permitted to smoke cigarettes, marijuana and/or other smoke-producing objects, including but not limited to cigars, vaping devices, pipes, and hookahs, on their Lots outside of their Residences in a manner that causes excessive amounts smoke to travel to other Lots. This includes smoking, vaping or other inhaled method using tobacco, marijuana or any other substance. The Board shall have discretion in determining if amounts of smoke are excessive, and may consider such criteria as whether more than one Resident is complaining, whether more than one complaint has been made, and whether the smoke is affecting the Common Area.

**3. Marijuana Cultivation**

- a. No Owner, Resident, tenant, or guest shall grow, cultivate, or produce any marijuana in any part of the Development, including on individual Lots, which includes all balconies, patios, decks, yards, gardens, greenhouses, garages, and all other areas of the Lot.
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WHITNEY OAKS

## CLOTHESLINE RULE

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- A. In accordance with Section 5.6 of First Restated Declaration of Covenants, Conditions and Restrictions of Whitney Oaks Community Association (the "Declaration"), Owners, Residents, tenants, and guests within Whitney Oaks Community Association (the "Development"), shall follow all rules established and adopted pertaining to Clotheslines.
- (a) For purposes of this section, "clothesline" includes a cord, rope, or wire from which laundered items may be hung to dry or air. A balcony, railing, awning, or other part of a structure or building shall not qualify as a clothesline.
- (b) For purposes of this section, "drying rack" means an apparatus from which laundered items may be hung to dry or air. A balcony, railing, awning, or other part of a structure or building shall not qualify as a drying rack.

### **Proposed Rule:**

- (a) Types of clotheslines shall be retractable only. No fixed clotheslines are permitted.*
- (b) Clotheslines shall be installed in backyards ONLY and shall be screened year-round from the common area, golf course and streets so there is minimum impact on the view of the neighbors.*
- (c) Clothes shall not be placed on balconies, railings or other parts of a structure or building.*
- (d) Clotheslines shall be retracted when no clothes are drying.*
- (e) Clothes shall be promptly removed after drying.*



## DRONE USE RULES

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- A. In accordance with Section 5.6 of First Restated Declaration of Covenants, Conditions and Restrictions of Whitney Oaks Community Association (the "Declaration"), Owners, Residents, tenants, and guests within Whitney Oaks Community Association (the "Development"), shall follow all rules established and adopted pertaining to Drone Use.
- B. Any person operating a drone, whether for hobby or commercial use, must have knowledge and follow FAA regulations.

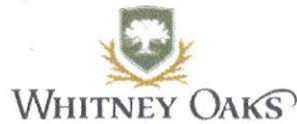
### **Rules for hobbyists flying drones:**

- 1. Pilots must be at least 13 years of age and provide their name, home address and email address to the FAA.
- 2. If the drone weighs between 0.55 and 55 pounds, the owner must register with the FAA.
- 3. The drone cannot be flown above 400 feet above ground level, flights are limited to daytime hours (*thirty minutes before sunrise and thirty minutes after sunset*).
- 4. Pilots may only operate one drone at a time and it must be within line of sight at all times.
- 5. Drones are not to be used to photograph or surveil private property.
- 6. It is against regulations to carry any hazardous materials.

### **Rules for commercial drone pilots:**

- 1. Pilots must be at least 16 years of age.
- 2. Pilots must obtain a remote pilot certificate.
- 3. Damage to common area by drones are the responsibility of the pilot.
- 4. Daytime restrictions apply, and the drone must be kept within the pilot's visual line of sight during operation.





## **VEHICLE GATE REMOTE ACCESS POLICY**

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- Whitney Oaks residents are provided with a master code to access the association's amenities.
- Remotes can be purchased by residents at a cost and will be programmed only to the community the resident resides in.
- Remotes will not be programmed universally for any resident to access all gates unless approved by the board of directors. A variance will only be approved for extraordinary circumstances and reviewed on a case by case basis.
- If you are mailed a damaged remote or if the remote does not work, it must be reported within five business days from the post mark on the envelope. Damaged remotes will be reported to management.
- Residents not reporting damaged or non-working remotes to management within the specified timeframe will be responsible for purchasing the replacement.

## WHITNEY OAKS COMMUNITY ASSOCIATION

**TO:** All Members  
**FROM:** Board of Directors  
**RE:** **NOTICE OF PROPOSED RULE CHANGE**  
Adoption of Election Rules  
**DATE:** October 3, 2018

The purpose of this written notice is to inform you that the Association's Board of Directors is considering adopting new election rules, as required by California law. This notice is being given to all members in accordance with California Civil Code Section 4360.

1. **Text of the Proposed Rule Change:** The proposed Election Rules are enclosed.

2. **Purpose and Effect of the Proposed Rule Change:** The purpose of the proposed Election Rules is to bring the Association into compliance with California Civil Code Section 5105 which requires associations to adopt such rules. The effects of the proposed Election Rules include: (a) creating a system for voting by secret ballots, (b) implementing a procedure whereby members nominate themselves as candidates for the Board of Directors, (c) selecting third parties to act as inspector(s) of elections, and (d) establishing guidelines regarding access to Association media and common area meeting space.

3. **Notice of Meeting of the Board of Directors to Consider Adoption of the Proposed Rule Change:** The Board of Directors will hold a meeting to consider the adoption of the proposed Election Rules as indicated below. The Board of Directors intends to make its decision at this meeting following consideration of any comments made by the members.

Date: **December 5, 2018**

Time: **6:00 PM**

Place: **2801 Springfield, The Oaks Building**

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## WHITNEY OAKS COMMUNITY ASSOCIATION

### ELECTION RULES

The following Election Rules are adopted in accordance with California Civil Code Section 4340 *et seq.* and pursuant to the authority of the Association's governing documents, are intended to comply with California Civil Code Section 5105 *et seq.* and shall apply to elections regarding (1) Assessments, (2) selection of Directors, (3) removal of Directors, (4) amendments to the governing documents, (5) grants of exclusive use of common area property pursuant to California Civil Code Section 4600, and (6) any other matter that may be the subject of a vote of Association Members. Unless the context clearly indicates otherwise, capitalized terms used herein shall have the same meaning as in the Association's governing documents. The following Election Rules are intended to replace and supersede any previously-adopted Election Rules.<sup>1</sup>

#### Section 1

##### Elections Regarding Selection of Directors

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

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

**1. Election Announcement.** No less than 20 days before the Association mails out the ballot packets, the Association shall send a notice to all Members inviting people to become candidates for election to the Board ("Election Announcement"). The Election Announcement (which may be presented in the Association's regular newsletter, if any) shall contain at least the information set forth in attached **EXHIBIT "A"**, and shall be presented in a manner substantially consistent with the sample in attached **EXHIBIT "B"**.

**2. Self-Nomination.** Each person who wishes to become a candidate must submit a written notification to the Association indicating the person's desire to become a candidate ("Notice of Desire to be a Candidate"). Each person's Notice of Desire to be a Candidate must either be mailed, hand delivered or e-mailed to the Association at the address(es) designated by the Board of Directors for that purpose, and must be received by the Association prior to the time specified in the Election Announcement ("Nomination Deadline"). In no event shall the Nomination Deadline be earlier than 5:00 p.m. on the date that is 15 days after the date the Election Announcement was mailed to the Members. It is each person's responsibility to confirm that his or her Notice of Desire to be a Candidate was received by the Association prior to the Nomination Deadline. Each eligible

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<sup>1</sup> Including without limitation the document entitled "Whitney Oaks Community Association Election Rules [Rev 03-06]".



person whose Notice of Desire to be a Candidate is received by the Association prior to the Nomination Deadline shall automatically be a candidate. There shall be no nominations from the floor at Board or membership meetings, and votes for write-in candidates shall not be valid.

**B. Director Election Statements.** Candidates and Members advocating a point of view may, but are not required to, submit a statement ("Director Election Statement") which, when printed, shall not exceed one side of a single 8½" x 11" page<sup>2</sup> and which shall be reasonably related to the election. Each person's Director Election Statement must either be mailed, hand delivered or e-mailed to the Association at the address(es) designated by the Board of Directors for that purpose, and must be received by the Association prior to the Nomination Deadline. It is each person's responsibility to confirm that his or her Director Election Statement was received by the Association prior to the Nomination Deadline.

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

**C. Uncontested Elections.** Notwithstanding anything contained in the Association's governing documents to the contrary, if, at the Nomination Deadline, the total number of eligible candidates for election to the Board is equal to or less than the number of seats to be filled at the election, then those candidates are deemed elected to terms that shall commence upon the expiration of the predecessors' terms and the Association can dispense with distributing ballots and conducting the election. If the number of Directors so elected is less than the number of seats to be filled at the election, the incoming Board of Directors shall fill the vacancy(ies) as provided for in the Association's Bylaws.

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

1. In order to be eligible to be a candidate, a person must be a Member in Good Standing (as that term is defined in Section 1.39 of the Master CC&Rs) as of the Nomination Deadline.

2. In order to be eligible for election to the Board, a candidate must be a Member in Good Standing as of the date scheduled for close of the balloting period.

3. Only one Owner of a particular Lot may serve on the Board concurrently.

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

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

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

a. Candidates and Members advocating a point of view may, but are not required to, submit a Director Election Statement which shall not exceed one side of a single 8½" x 11" page and which shall be reasonably related to the election. All Director Election Statements must be received by the Association prior to the Nomination Deadline. The Association shall not edit or redact any content from the Director Election Statements.

b. Black-and-white copies of all Director Election Statements received prior to the Nomination Deadline will be included in the ballot packets that are mailed to all Members (see Section 1, Paragraph G of these Election Rules).

c. No other access to Association media, newsletters or Internet Web sites shall be provided by the Association to any candidate or Member advocating a point of view during a campaign for purposes that are reasonably related to the election.

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

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

F. **Content of Ballots.** Each candidate's name shall be included on the official ballot form, listed in alphabetical order by last name. The ballots shall further state all of the following:

1. the number of Directors to be elected;
2. the date and time the initial balloting period will close;

3. the quorum requirement (see Sections 4.6 and 6.2 of the Association's Bylaws); and

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

**G. Distribution of Ballot Packets.** Not less than 30 days prior to the date scheduled for the close of the initial balloting period, the Association shall mail, via first-class U.S. mail, one ballot packet to each Member. Each ballot packet shall contain all of the following:

1. one official ballot;
2. black-and-white copies of all Director Election Statements received by the Association prior to the Nomination Deadline;
3. a statement specifying that the Association was not permitted to edit or redact any content from the Director Election Statements and thus the author of each Director Election Statement, and not the Association, is responsible for the content of his or her Director Election Statement;
4. two sealable envelopes, a smaller envelope ("Inner Envelope") and a larger envelope ("Outer Envelope"); and
5. instructions on how to vote using the two-envelope system ("Secret Ballot Voting Instructions").

The Inner Envelope shall either (1) be totally blank or (2) contain such wording as may be determined or approved by the Inspector of Election. There shall be no Member-identifying markings on the Inner Envelope.

The Outer Envelope shall be pre-addressed to the Inspector of Election at the address specified by the Inspector of Election. The Outer Envelope shall contain *either* (1) blank lines in the upper left hand corner for the voter to sign his or her name, indicate his or her name, and indicate the address(es) or separate interest identifier(s) that entitles/entitle him or her to vote *or* (2) a pre-printed label that indicates the voter's name and the address(es) or separate interest identifier(s) that entitles/entitle him or her to vote and contains at least one blank line for the voter to sign his or her name.

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

1. The ballot shall not be required to be signed by the voter.
2. Once completed, the ballot must be inserted into the Inner Envelope and the Inner Envelope must be sealed. The Inner Envelope containing the completed ballot must then be inserted into the Outer Envelope and the Outer Envelope must be sealed.



3. In the upper left-hand corner of the Outer Envelope, the voter shall sign his or her name, indicate his or her name, and indicate the address(es) or separate interest identifier(s) that entitles/entitle him or her to vote. The Inspector of Election has the power to invalidate any ballot if the Outer Envelope does not comply with this Paragraph H.3.

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

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

6. If the Inspector of Election designates the Association's mailing address as the location to which the Outer Envelopes containing the ballots must be mailed or delivered by hand, the Association shall (i) maintain a log of all Outer Envelopes received and (ii) put all Outer Envelopes in the order designated by the Inspector of Election.

7. The Outer Envelopes shall not be opened until the Inspector of Election instructs them to be opened.

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

J. **Inspector of Election.**

1. ***Appointment and Term.*** The Board shall appoint one or three people to serve as the Inspector of Election. Each Inspector of Election shall serve at the pleasure of the Board until he or she resigns or is discharged by the Board.

2. ***Qualifications.*** The Inspector of Election shall be an independent third party or a person who is currently employed or under contract to the Association for any compensable services. Notwithstanding the foregoing, in no case shall a person serve as an Inspector of Election if he or she is:

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

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

- a. specify one or more locations to which the Outer Envelopes containing the ballots must be mailed or delivered by hand;
- b. determine the number of memberships entitled to vote and the voting power of each;
- c. receive ballots;
- d. determine the authenticity, validity, and effect of ballots;
- e. hear and determine all challenges and questions in any way arising out of, or in connection with, the right to vote;
- f. hear and determine all challenges and questions in any way relating to the envelopes and the ballots;
- g. count and tabulate all votes;
- h. appoint and oversee additional people to open envelopes, count and tabulate votes, and undertake other tasks in connection with the election that the Inspector of Election deems necessary or appropriate, provided that each such person meets the same qualifications as the Inspector of Election as set forth in Section 1, Paragraph J.2 of these Election Rules;
- i. establish and apply such rules and procedures as the Inspector of Election deems appropriate to assure that the Members witnessing the opening of the envelopes and the counting and tabulation of the ballots do not interfere with the process, including establishing locations where such Members must, or cannot, be while the envelopes are being opened and the ballots are being counted and tabulated;
- j. determine when the polls close, consistent with the governing documents;
- k. determine the tabulated results of the election;
- l. conduct a random drawing or other method of chance as determined by the Inspector of Election to break a tie in the number of votes cast for election of candidates to the Board;

m. prepare a written "Report of Inspector of Election" in such format as may be determined or agreed to by the Board; and

n. perform any acts as may be proper to conduct the election with fairness to all Members in accordance with California Civil Code Section 5105, the California Corporations Code, and all applicable rules of the Association regarding the conduct of the election that are not in conflict with California Civil Code Section 5105.

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

The Inspector of Election shall perform his or her duties impartially, in good faith, to the best of his or her ability, and as expeditiously as is practical. If there are three people serving as the Inspector of Election, the decision or act of a majority shall be effective in all respects as the decision or act of the Inspector of Election.

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

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

2. Envelopes may only be opened and ballots tabulated if a sufficient number of Outer Envelopes exist to meet the quorum requirement for Member action under the governing documents. Although the Inspector of Election has the power to invalidate any ballot if the Outer Envelope does not comply with Paragraph H.3 of these Election Rules, any such Outer Envelope shall be counted toward meeting the quorum requirement for Member action under the governing documents. In the event that there are not enough Outer Envelopes to meet the quorum requirement, the Inspector of Election shall not proceed with opening the Outer Envelopes, shall notify the Board that a quorum has not been established, and may extend the balloting period. If the Inspector of Election extends the balloting period, the Inspector of Election shall instruct the Board how to communicate such extension to the Members.

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



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

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

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

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

**L. Election Results.**

1. The Inspector of Election shall promptly report the tabulated results of the election to the Board. The Board shall record the results in the minutes of the next Board meeting (which can be accomplished by attaching the Report of Inspector of Election as an exhibit to such minutes) and shall make the results available for review by Members.

2. Within 15 days following the meeting at which the ballots were counted and tabulated, the Board shall notify the Members (in accordance with California Civil Code Section 4045) of the tabulated results of the election.

**M. Inspector of Election Report.** Following the conclusion of the meeting at which the ballots are counted and tabulated, the Inspector of Election shall prepare and submit to the Board a written "Report of Inspector of Election" in such format as may be determined or agreed to by the Board.

**N. Custody, Storage and Retention of Ballots.**

1. After the Inspector of Election reports the tabulated results of the election to the Board, the ballots shall be in the custody of the Inspector of Election or at a location designated by the Inspector of Election until the time allowed by California Civil Code Section 5145 for challenging the election has expired, at which time the Inspector of Election shall transfer custody of the ballots to the Association.

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

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

## Section 2

### Elections Regarding All Other Matters

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

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

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

a. If the Association provides access to Association media, newsletters, or Internet Web sites during a campaign to any Member advocating a point of view for purposes that are reasonably related to the election, then all Members advocating a point of view for purposes that are reasonably related to the election shall have equal access to the forum provided. The Association shall not edit or redact any content from these communications; however, the Association may include a statement specifying that the Member, and not the Association, is responsible for the content of the communication, and that the Association was required by law to publish the communication verbatim, regardless of content.

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

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

B. **Content of Ballots.** Each ballot shall contain:

1. the identification of the matter that is the subject of a pending Member vote;

2. a statement that the initial balloting period will close at such time and on such date established by the Board, which shall be not less than 30 days from the date of the ballot packets are mailed to the Members;

3. a statement specifying that the Association was not permitted to edit or redact any content from the communications provided pursuant to Section 2, Paragraph A.1 of these Election Rules and thus the author of each such communication, and not the Association, is responsible for the content of his or her communication; and

4. a statement that the balloting period may be extended.

C. **Distribution of Ballot Packets.** Not less than 30 days prior to the date established by the Board for the close of the initial balloting period, the Association shall mail, via first-class U.S. mail, one ballot packet to each Member. Each ballot packet shall contain all of the following:

1. one official ballot;

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

3. the Secret Ballot Voting Instructions; and

4. if the election is regarding an amendment of a governing document, the text of the proposed amendment.

The Inner Envelope shall either (1) be totally blank or (2) contain such wording as may be determined or approved by the Inspector of Election. There shall be no Member-identifying markings on the Inner Envelope. The Outer Envelope shall be pre-addressed to the Inspector of Election at the address specified by the Inspector of Election. The Outer Envelope shall contain *either* ((1) blank lines in the upper left hand corner for the voter to sign his or her name, indicate his or her name, and indicate the address(es) or separate interest identifier(s) that entitles/entitle him or her to vote *or* (2) a pre-printed label that indicates the voter's name and the address(es) or separate interest identifier(s) that entitles/entitle him or her to vote and contains at least one blank line for the voter to sign his or her name.



D. Rules Regarding Voting Using the Two-Envelope System. See Section 1, Paragraph H of these Election Rules.

E. Balloting Period. See Section 1, Paragraph I of these Election Rules.

F. Inspector of Election. See Section 1, Paragraph J of these Election Rules.

G. Opening of Envelopes / Counting and Tabulation of Ballots. See Section 1, Paragraph K of these Election Rules.

H. Election Results. See Section 1, Paragraph L of these Election Rules.

I. Inspector of Election Report. See Section 1, Paragraph M of these Election Rules.

J. Custody, Storage and Retention of Ballots. See Section 1, Paragraph N of these Election Rules.

### Section 3 General Election / Voting Provisions

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

A. Qualifications for Voting. Only Members in Good Standing are entitled to voting rights.

B. Voting Power of Memberships.

1. *Director Elections.* At each election of Directors, each Member may cast, in respect to each position on the Board to be filled, one vote for each vacant seat being filled.

2. *All Other Matters.* In all other matters, each Member may cast one vote for each Lot owned by such Member.

C. Proxies. The Association's Bylaws do not permit or require proxies. Accordingly, proxies shall not be used in any Association election

## EXHIBIT "A"

### REQUIRED INFORMATION FOR "ELECTION ANNOUNCEMENT"

The Election Announcement shall contain at least the following information:

1. Interested people must notify the Association, in writing, that they would like to be a candidate.
2. In order to be eligible to be a candidate, a person must be a Member in Good Standing as of the Nomination Deadline.
3. In order to be eligible for election to the Board, a candidate must be a Member in Good Standing as of the date scheduled for close of the balloting period.
4. Only one Owner of a particular Lot may serve on the Board concurrently.
5. Candidates and Members advocating a point of view may, but are not required to, submit a "Director Election Statement" which shall not exceed one side of a single 8½" x 11" page and which shall be reasonably related to the election. By submitting a Director Election Statement, the author accepts full responsibility for the content thereof and agrees to indemnify the Association and its agents and representatives for any and all damage arising from or related to any such content.
6. The "Notice of Desire to be a Candidate" and the Director Election Statement must either be mailed, hand delivered or e-mailed to the Association at the address(es) designated by the Board of Directors for that purpose, and must be received by the Association prior to the Nomination Deadline. It is each person's responsibility to confirm that his or her Notice of Desire to be a Candidate and Director Election Statement were received by the Association prior to the Nomination Deadline.

EXHIBIT "B"

GENERAL FORMAT FOR "ELECTION ANNOUNCEMENT"

**Whitney Oaks Community Association**  
**Important Announcement Regarding Upcoming Election of Directors**

You are invited and encouraged to become a candidate for election to the Board of Directors. There are \_\_\_\_ seats to be filled in this election. The \_\_\_\_ eligible candidates who receive the \_\_\_\_ highest number of votes in the election will be elected to terms that end at the annual election of directors in 20\_\_.

To become a candidate, you must notify the Association in writing, by completing and submitting the enclosed *Notice of Desire to be a Candidate* form. Your *Notice of Desire to be a Candidate* must be submitted to either (1) by e-mail to \_\_\_\_\_, or (2) by mail or hand delivery to the following address:

**Whitney Oaks Community Association**  
c/o \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

Your *Notice of Desire to be a Candidate* and your optional *Director Election Statement* (described below) must be received by the Association prior to **5:00 p.m. on \_\_\_\_\_, 20\_\_** (the "*Nomination Deadline*").

Each eligible Member whose *Notice of Desire to be a Candidate* is received by the Association prior to the Nomination Deadline shall automatically be a candidate. There shall be no nominations from the floor at any Board or membership meeting. Write-in candidates are not permitted and votes for write-in candidates shall not be valid. It is each Member's responsibility to confirm that his or her *Notice of Desire to be a Candidate* was received by the Association prior to the Nomination Deadline.

**Qualifications for Candidacy and Election to the Board:**

1. In order to be eligible to be a candidate, a person must be a Member in Good Standing as of the Nomination Deadline.
2. In order to be eligible for election to the Board, a candidate must be a Member in Good Standing as of the date scheduled for close of the balloting period.
3. Only one Owner of a particular Lot may serve on the Board concurrently.

### **Director Election Statements:**

Each candidate and each Member advocating a point of view may, but is not required to, submit (to the e-mail and/or mailing addresses listed on the reverse side) a ***Director Election Statement*** that is reasonably related to the election. ***Director Election Statements*** shall not exceed one side of a single 8½" x 11" page. All ***Director Election Statements*** that are received by the Association prior to the Nomination Deadline will be reproduced as submitted (in black and white) and will be included with the ballot package which will be mailed to all Association Members.

By submitting a ***Director Election Statement***, you accept full responsibility for its content and agree to indemnify the Association and its agents and representatives for any and all damage arising from or related to any such content. It is each Member's responsibility to confirm that his or her ***Director Election Statement*** was received by the Association prior to the Nomination Deadline.

### **Important Dates:**

1. The "record date" for determining who is an Owner/Member *for the purpose of determining who will receive a ballot* is **5:00 p.m. on \_\_\_\_\_, 20\_\_**. That means that only people who are Owners/Members as of 5:00 p.m. on \_\_\_\_\_, 20\_\_ will receive a ballot.
2. The "record date" for determining who is a Member in Good Standing *for the purpose of determining who is eligible to vote in the election* is **5:00 p.m. on \_\_\_\_\_, 20\_\_**. That means that the Inspector of Election will count your ballot ***only*** if you were a Member in Good Standing as of 5:00 p.m. on \_\_\_\_\_, 20\_\_. It is each Member's responsibility to contact the Association to find out whether or not he or she is a Member in Good Standing.
3. The "record date" for determining a Member's eligibility to become a candidate is the Nomination Deadline (\_\_\_\_\_, 20\_\_).
4. The "record date" for determining a candidate's eligibility for election to the Board is the close of the balloting period. In this election, that will be \_\_\_\_\_ .m. on \_\_\_\_\_, 20\_\_.