

# **TIMBERS CONDOMINIUMS OWNERS' ASSOCIATION, INC**

## **VOTING PROCEDURES POLICY**

**Approved June 2012**

### **Meeting Mailer:**

Is to be prepared by management and distributed to the President/s of the association/s each year for review and approval within 7 business days from when distributed.

### **Record Date Set:**

The Association shall establish a date at least 10 days but not more than 30 days in advance of the annual member meeting date to establish the owner listing.

Members are required to have provided the association management company with any address changes prior to the record date in order to obtain correct delivery of the mailed information.

### **Notice and Proxy mailed out 30 days in advance**

The Notice of Annual Member Meeting shall be delivered to those members in good standing not more than 30 days in advance but not less than 10 days in advance. Such notice shall also include:

- A directed proxy allowing the member to designate a proxy holder to either direct the proxy holder how they should vote on their behalf or at the designated proxy holder's discretion.
- Candidate Statement reviewing the biographical sketch and qualifications of any and all candidates
- A brief statement by the Board explaining the purpose and intent of any business matters coming before the membership for approval
- Any other information the board of directors and management has determined to be of importance.

### **Affidavit of mailing signed by Secretary of Association**

The Secretary of the Association shall execute an affidavit affirming the validity of the date the Notice of Meeting was placed in the U S Postal Service for delivery to its membership. This shall be kept with the permanent records of the association. (See attached form)

### **Counting and filing of proxy votes prior to Annual Meeting**

Proxies shall be delivered to the management company acting as secretary for the association for filing and recordation of any voting the member has directed upon such proxy. Such proxies shall be maintained in an alphabetically organized file.

The record maintained by management shall consist of the following information:

1. A full and complete list of the owners name and contract number to whom the Notice of Meeting was mailed as determined by the Record Date.
2. A notation that the member has delivered his/her/their proxy and it has been received by management
3. A notation of how the proxy has been voted if member has directed their voting for election candidates and other business identified on the proxy.
4. A notation of who the member has assigned their proxy to if that proxy holder has the ability to vote on behalf of the member because the member has indicated such action on the proxy.
5. A notation on the record of proxies returned to establish quorum

**Confidentiality Note:** Management personal assigned to maintain the voting records shall not divulge the specific voting results for any candidate or business matter. This information shall be shared only with the duly appointed inspectors of election until the election and voting results have been presented to the annual meeting.

The management company shall deliver to the Annual meeting the complete record of proxies received and the voting choices thereof. Such record shall be surrendered to the inspectors of election at the time of ballot collection.

**Challenge of member(s) concerning person conducting the count and record keeping of the proxies:**

In the event that any member of the association who is found to be in good standing determines to challenge the validity of the vote calculations based upon the person appointed to conduct such record the board of directors shall convene and determine among themselves if such challenge is valid or not. If they determine there is adequate questionable circumstances they may choose to appoint another person such as legal counsel or auditing firm to complete a recount and recalculation of all received proxies prior to announcing the results of an election.

The decision of the majority of the board shall be deemed to be final

**Rules for determining if a proxy is counted or not**

The designated person in the management company (inspector) shall be the sole individual to determine if a proxy is valid or not. Such person shall be entitled to apply the following rules upon each proxy that comes into question as to its purpose and validity.

**Rules for Proxies:**

- Any proxy that is unsigned shall not be counted
- Any proxy that is not dated shall not be counted
- Any proxy that uses an (X) instead of a number shall be utilized as follows due to cumulative voting, if applicable:

Example whereas 3 positions are available and cumulative voting is applicable:

- Each owner has three votes per owned interval. If an owner places an X next to only one candidate's name that X shall be interpreted as voting 3 votes for that person
- Each owner has three votes per owned interval. If an owner places an X next to 3 separate names that X shall be interpreted as voting 1 vote for each of those.
- Each owner has three votes per owned interval. If an owner places an X next to only two names that X shall be interpreted as voting 1 vote for each of those. They will have only voted for two persons.
- Any proxy that uses an (X) instead of a number shall when cumulative voting is not applicable shall be utilized as follows:

Example whereas 3 positions are available and cumulative voting is not applicable:

- Each owner has three votes per owned interval. If an owner places an X next to only one candidate's name that X shall be interpreted as voting 1 vote for that person. They will have only voted for one person.
- Each owner has three votes per owned interval. If an owner places an X next to 3 separate names that X shall be interpreted as voting 1 vote for each of those.
- Each owner has three votes per owned interval. If an owner places an X next to only two names that X shall be interpreted as voting 1 vote for each of those. They will have only voted for two persons.
- Any proxy where the owner has not written in the name of a proxy holder shall be deemed to have assigned their proxy to the board of directors.
- Any proxy where the owner has not designated the Use of the Proxy and checked either the "to be voted as indicated below" or "For Quorum Purposes Only" shall be interpreted to have allowed the proxy holder to vote as directed or as the proxy holder deems proper.
- In the election of the Directors section if the member has failed to check either the "Vote as Proxy holder deems proper" or the "Vote and cast the members vote as follows", the proxy holder shall be permitted to vote as proxy holder deems proper ONLY if the member has not personally noted (no numbers or X's next to a candidate's name) on the proxy how they intended to vote. If there are notations next a candidate's name proxy holder must vote as designated.
- Write-in candidates must be members of the association found to be in good standing as of the date of the Record Date. Otherwise, they are disqualified.
- Proxy forms that can not be easily identified with an owner's name or ownership shall not be counted. This is determined by the designated person responsible in counting the proxies, either at the management company, assigned legal representative or other third party assigned at the time the proxy is received.
- In the event that a proxy can not be read no direct contact will be made to the proxy holder to try to determine the owner. It is the owner who submits the proxy that is responsible to ensure that the proxy is properly filled out so that the proper verification of ownership can be made.
- In the event a proxy is given to another owner to turn in on their behalf, whether to their assigned proxy holder or not, this does not waive the individual owner's

voting privacy/ right to a secret ballot, nor grant the individual turning it in on their behalf any additional privileges to change, seek information on that owner, account or proxy etc.

- The inspectors of election shall determine the conclusions for any unusual circumstances or scenarios as otherwise not addressed herewith.

### **Revoked and Replaced Proxy**

Any member has the right to change a proxy they have previously delivered to management prior to the annual meeting. This must be done prior to the annual meeting beginning. Once the annual meeting has been called to order no proxy shall be returned to the owner.

Management shall govern their calculation of the proxy voting according to the date the proxy was signed. If a member submits a proxy and subsequently submits another proxy for the purpose of changing or reaffirming their voting selection the proxy for that members account(s) which will be used in the calculation shall be that with the most current date next to their signature.

If a member submits a subsequent proxy without having signed and dated it, it shall not be used but will be dismissed.

**TREATMENT OF REVOKED PROXIES DELIVERED AT ANNUAL MEETING:** The board of directors and management hereby declare that should a substantial (5% of quorum or more) number of proxies be submitted within two days prior to the annual meeting which are revoking prior proxies that have been previously submitted that such proxies shall not be counted and thus calculated upon the voting and registration records prior to the annual meeting beginning.

Such calculation shall be accomplished by the Inspectors of Election and they shall correct the records of proxy voting completing the change found upon each member's replacement proxy. This calculation and correction and thus the final count of the voting shall be accomplished at a date following the annual meeting as agreed upon by the inspectors of election and management.

In the event that a proxy has been revoked where a ballot was assigned and distributed the inspectors may need to go to the ballot holder directly in order to revoke the previously distributed ballot.

The results of the voting for election and all business matters shall be announced as soon as possible following the inspector's inspection and calculations.

### **Proxy Surrender at Annual Meeting**

The Association shall provide through management a registration desk for members of the association to sign in and be counted for quorum purposes and to obtain a ballot for election and business matters voting. The check-in staff will be appointed

management and resort staff. All staff must participate in training prior to the meeting/check-in process beginning.

Members attending the annual meeting in person who have previously delivered their proxy to the management company by mail shall be given the opportunity to have such proxy returned to them and to receive a ballot with which to cast their votes. They shall also be permitted to allow their pre-delivered proxy to remain in the records of the association and in such circumstance member shall not be given a ballot to vote during the meeting.

If a member has pre-delivered their proxy, attends the meeting and requests to obtain their proxy back, the proxy itself will not be returned due to the time demand to locate it in the filed records and surrender it back to the member. The registration record will however, be noted as having returned the proxy, the notations made on that owners registration line will be marked and the count generated by the accumulated calculation of voting on the record will be reduced by that owners previous vote by the inspectors of election. If an assigned proxy holder was previously appointed and a ballot distributed, that ballot will be revoked.

If proxies are turned in at the time of check-in for owners not present the registration desk will check-in the proxy holder, verifying ownership and voting eligibility.

If no other proxy has been turned in by that owner and:

- The owner directs how the proxy holder shall vote; the proxy itself will be turned in for the inspectors to count.
- The owner has indicated that the proxy holder can vote as they deem, a ballot will be prepared and distributed for the assigned proxy holder.
  - In the event that an owner has been assigned as the proxy holder to vote as they deem proper for multiple owners, a single ballot may be issued with the total number of votes assigned to be cast for each election item.

If a proxy has already been turned in by that owner the revoked and replaced proxy procedures will be followed.

### **Ballot Voting at Annual Meeting**

Individual members and the board of directors who have been given proxies to represent another member shall be provided a ballot upon registration prior to the annual meeting.

The ballot shall be completed in a manner that does not require member signatures or member identification so that secret ballot status can be maintained. It shall be understood that only those persons who have been registered at the beginning of the meeting shall be in possession of a ballot and thus no additional identification is required.

Each ballot shall have a notation as to how many votes that ballot can be used for filled out by the registration agent.

During the registration process the registering persons shall confirm that the members attending have not previously submitted a proxy who will have been recorded

and upon learning that they had not submitted a proxy shall be given a ballot with which they can then vote during the meeting.

A member, including the board of directors will be provided a ballot identifying the total number of votes they have been assigned by proxy from members. This number shall be calculated from the record maintained by management at the beginning of the annual meeting.

Proxies and thus the ballots that have been assigned to an individual member shall only be voted by the person noted. If that person is not in attendance at the annual meeting such ballot shall not be cast nor counted.

A member to whom a proxy has been assigned must be a member in good standing and able to vote themselves or the proxy assigned to them shall not be permitted to be included in the voting process.

Ballots shall be collected from the members by those who are appointed as Inspectors of Election and secrecy shall be maintained.

### **Board Member Proxy Voting**

Proxies assigned to the Board of directors, shall be considered by the board as to how they will vote the total number of votes accumulated from members who has assigned their proxy to them. It is anticipated that the board shall meet and discuss their plan on how they shall vote any and all proxies they are assigned prior to the annual meeting. The president shall then complete the ballot provided the board at the annual meeting according to the direction of the majority of the board.

Example: The board may meet and discuss the election and business matters to be voted upon. The board can then determine to vote all their accumulated proxy votes toward one individual they feel they want to help become elected. They may also choose to spread their votes equally to several persons or equally to all candidates.

The board has the right and duty to do what they feel is in the best interests of the association and may, without worry, make a knowledgeable decision favoring one or more candidates. They do not have to favor the voting of the membership in fairness as they are operating from a position of greater knowledge and understanding of the associations and thus governing board of directors needs.

### **Conducting the election and voting at the annual meeting**

During an annual meeting where quorum has been met to transact business the board president or the board's designee shall conduct the election during the annual meeting in the following manner:

- The election procedures shall be explained to the members present.
- Cumulative voting shall be explained (if applicable)
- Proper ballot completion shall be explained

- A representative of the association shall make a brief description of any business matters to be voted upon prior to proceeding to the vote.
- Candidates shall be introduced and provided an opportunity to speak briefly to the membership
- A call for nominations from the floor shall be made to invite any person who has not previously been nominated to offer another person or themselves for candidacy as a board member. Such additional person(s) shall also be provided an opportunity to address the members prior to casting votes.
- Once presentations have been completed the members shall be directed to complete their ballots after all items up for vote on the ballot have been addressed
- Ballots shall be collected only by an inspector of election

### **Counting Ballots and Proxy Votes at Meeting and Inspectors of Election**

Following the collection of ballots during the annual meeting the inspectors and management company representative shall retire to a private location for the purpose of calculating the voting results.

The management company representative shall provide all records of the proxies collected and registration records of the meeting to the inspectors of election to combine with the ballots that have been collected.

No person, other than the inspectors and management person giving instructions shall be permitted to attend the voting count.

No person, including the board of directors shall be permitted to inspect proxy and ballot records until following the annual meeting and then by appointment only.

- Inspectors shall be selected from volunteers solicited at the meeting.
- Inspectors must be members of the association in good standing
- Inspectors may not be related (immediate family- spouse, parents, children, siblings) with any of the candidates on the ballot
- Inspectors shall complete the Oath of Inspectors (see attached)
- The management person in charge of accumulating proxies and ballots for counting shall provide inspectors with a description of the records and how they have been maintained and recorded.
- All proxies that have been delivered prior to the meeting will be organized alphabetically shall be made available to the inspectors
- The record of proxy counts and registration shall be provided to the inspectors
- Ballots that are counted must be carefully scrutinized to determine that they have not cast more votes than each ballot was permitted to cast. A notation of the correct number of votes available to be cast will be found on each ballot as a notation made at the time it was delivered to the ballot holder by registering agents. Any ballot that has cast more votes than permitted shall not be counted.
- The inspectors shall be provided with paper pads and pencils for use in making their calculations records.
- A calculator shall be made available to the inspectors

- The management person shall remain available to the inspectors following all instructions for questions and answers but shall not participate in the count.
- Inspectors may rely on the count already completed on the proxy receipt record following an evaluation of the document and determination that it has been accomplished correctly.
- Inspectors shall complete and sign a Certificate and Report of Inspectors of Election whereon they provide a count for each candidate and establish the successful persons elected to the board. (See attached Certificate)
- The X number of persons having the largest number of votes shall be elected to the board.

**Note:** In the situation where a large number (5% of quorum or more) of revoked proxies are delivered later than two days in advance of the meeting the inspectors of election shall determine a date and time when they can assemble and conduct and complete the proxy and ballot counts. It will be necessary for them to adjust numerous records of prior proxies received according to the more recently dated proxies received. This is a time consuming process and will not be done during the annual meeting.

## **CHALLENGE TO ELECTION RESULTS AND VOTE COUNT CALCULATIONS**

Any member of the association shall have the right to inspect association records for the purpose of a recount, if such recount is formally approved by the board of directors. Any member desiring to challenge the election results or call for a recount for any reason shall submit such demand to the board of directors explaining the reasons and purpose for such claim. If the board of directors determines that such claim is valid it shall hire legal counsel or an auditing firm to conduct such recount.

Should the board of directors deny such a claim they may refuse to conduct the requested recount. The member shall then have any remedy available by law available to him/her to proceed to secure the right to accomplish the recount.

The board maintains the authority to modify and update this voting procedures policy as needed without further notice.