

# MULHOLLAND PARK

## **Rules for a Secret Ballot**

### **As per California Civil Code §1363.03 (Elections and Meetings) , §1363.04 (Funds for Campaigns) For the Election of Directors, For any Amendment to the CC&Rs, Special Assessment and §1363.07 For Allowing or Granting a Member Exclusive Use of or Over Any Portion of the Common Area**

In connection with the election of directors, amendment to the CC&Rs, Special Assessment and the granting a Member exclusive use or any portion of the Common Area the following Rules and Procedures shall apply:

#### **1. Meeting at Which Secret Ballots Shall be Tabulated.**

- 1.1 The inspectors of the election shall tabulate the ballots for the election for:  
The election of the directors at the annual meeting of the owners, or if a quorum is not present, then at an announced rescheduled meeting, as prescribed by the Bylaws, where the quorum is reduced or;

At a special meeting of the Board of Directors for the purposes of voting on CC&R amendments, approving a special assessment or granting a Member exclusive use of any portion of the Common Area.

The Board of Directors shall determine the date, time and place of said meeting, of the owners and the concurrent, if any, special meeting of the Board in accordance with the Association's Bylaws.

#### **2. Nomination of Candidates.**

- 2.1 At least sixty (60) days before the date of the meeting, at which the ballots for the election of directors are to be counted, the Association shall mail to each owner a Candidate Nomination Form.
- 2.2 According to the Association's Bylaws, the qualification(s) to serve on the Association's Board of Directors as per the Bylaws.
- 2.3 Owners may nominate themselves or another person; provided, however, that all candidates must meet the qualifications set forth in Section 2.2.
- 2.4 Any candidate nominated by another person will be contacted to confirm that such candidate consents to having his or her name placed in nomination for election to the Board.
- 2.5 All candidates who meet the qualifications to serve on the Board and, if appropriate, have confirmed their willingness to run for election to the Board, shall be listed on the secret ballot.

2.6 The Candidate Nomination Form must be returned to the Association at the address provided on, and by the deadline stated on, such form, which deadline must be at least forty-five (45) days before the date the ballots for the election of directors are scheduled to be counted.

3. **Inspectors of Election.**

3.1 The Board shall appoint three independent third parties as inspectors of election after the close of candidate nominations but before the secret ballots are mailed to all of the owners. An independent third party includes, but is not limited to:

3.1.1 a volunteer poll worker with the County registrar of voters;

3.1.2 a licensee of the California Board of Accountancy;

3.1.3 a notary public.

3.1.4 a member of the Association provided such member is not a member of the Board of Directors or a candidate for the Board of Directors or related to a member of the Board of Directors or a candidate for the Board of Directors and,

3.1.5 a person who is currently employed or under contract to the Association for any compensable services.

3.2 Prior to the secret ballots being mailed to all of the owners, the inspectors of election shall meet to determine to whom the secret ballots shall be returned (the "Ballot Collector"), which may be the Association's community manager, if any.

3.3 The inspectors of election shall also do all of the following:

3.3.1 determine the number of memberships entitled to vote and the voting power of each.

3.3.2 determine the authenticity, validity, and effect of proxies, if any;

3.3.3 receive ballots;

3.3.4 hear and determine all challenges and questions in any way arising out of or in connection with the right to vote;

3.3.5 count and tabulate all votes;

3.3.6 determine when the polls shall close;

3.3.7 determine the results of the election;

3.3.8 perform any acts as may be proper to conduct the election with fairness to all members in accordance with this section and all applicable Rules of the Association regarding the conduct of the election that are not in conflict with this section.

3.4 An 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. The decision or act of a majority shall be effective in all respects as the decision or act of all.

- 3.5 Any report made by the inspector or inspectors of election is prima facie evidence of the facts stated in the report.
- 3.6 The Board may remove and replace any inspector of election prior to the tabulation of ballots if an inspector of election resigns or if the Board determines that an inspector of election will not be able to perform his or her duties impartially and in good faith.

**4. Secret Ballot Procedure; Record Date.**

- 4.1 Ballots and two preaddressed envelopes with instructions on how to return ballots shall be mailed by first-class mail or delivered by the Association to every member not less than thirty (30) days prior to the deadline for voting.
- 4.2 Ballots must ensure the confidentiality of the voters.
  - 4.2.1 A voter may not be identified by name, address, or lot, parcel or unit number on the ballot;
  - 4.2.2 The ballot may not require the signature of the voter;
  - 4.2.3 The ballot itself 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 prints and signs his or her name, address, and lot, or parcel, or unit number that entitles him or her to vote. The second envelope is addressed to the inspectors of election, who will be tallying the votes.
- 4.3 Owners may return their secret ballot by mail, hand deliver it to the meeting or complete the ballot at the meeting; provided only those ballots which are delivered to the inspectors of election *prior* to the polls closing shall be counted.
- 4.4 A member may request a receipt for delivery.
  - 4.4.1 The record date for purposes of voting shall be the date the ballots are mailed to all of the owners.
- 4.5 If I lose my Ballot that was sent to me, can I get another one?  
Yes, Contact the Inspector(s) of Election at Community Property Management, P. O. Box 2817, Camarillo, CA 93011-2817.

However, you must sign a statement under penalty of perjury that you either lost, destroyed or did not receive the first Ballot. The Inspector(s) of Election shall maintain a record of each such request and if it is determined that the Owner voted twice, even by mistake, neither ballot will be counted

**5. Campaigning.**

- 5.1 All candidates or members advocating a point of view during a campaign, including those not endorsed by the Board, shall be provided equal access to Association media, newsletters, or Internet Web sites (if any) for purposes that are reasonably related to the election. The Association may not edit or redact any content from these communications, but may include a statement specifying that the candidate or member, and not the Association, is responsible for that content.
- 5.2 All candidates, including those who are not incumbents, and all members advocating a point of view, including those not endorsed by the Board, for purposes reasonably related to the election, shall be provided equal access to any common area meeting space, if any exists, during a campaign at no cost.

6. **Handling of Ballots.**

- 6.1 As secret ballots are returned to the Ballot Collector, the Ballot Collector shall check off on a sign-in sheet that a ballot has been received for such unit/lot. The first secret ballot received for any unit/lot shall be the ballot which is counted. Any subsequent ballots for the same unit/lot which are received shall be deemed invalid and shall be discarded.
- 6.2 The sealed ballots at all times shall be in the custody of the inspectors of election or at a location designated by the inspectors until delivered to the inspectors at the meeting for the opening of the ballots and the tabulation of the vote. After the counting of ballots and the certification of the election results by the inspectors of the election, the ballots shall be transferred to the Association.
- 6.3 No person, including a member of the Association or an employee of the management company, shall open or otherwise review any ballot prior to the time and place at which the ballots are to be counted and tabulated.
- 6.4 After tabulation, election ballots shall be stored by the Association in a secure place for no less than one (1) year after the date of the election. In the event of a recount or other challenge to the election process, the Association 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 shall preserve the confidentiality of the vote.

7. **Tabulation of Votes; Quorum Requirement.**

- 7.1 All votes shall be counted and tabulated by the inspectors of election in public at a properly noticed open meeting of the members or of the Board,

at which a quorum of members or a quorum of Board members, as the case may be, must be present.

- 7.2 The inspectors of election shall confirm that no more than one ballot was returned for each unit/lot.
  - 7.3 Any candidate or other member of the Association may witness the counting and tabulation of the votes.
  - 7.4 In order for the vote for the election of directors to be valid, ballots must be returned by at least a quorum of the owners.
8. **Announcement of Results.**
- 8.1 The results of the election shall be promptly reported to the Board of Directors and shall be recorded in the minutes of the next meeting of the Board of Directors and shall be available for review by members of the Association.
  - 8.2 Upon certification of the election results by the inspectors of election, the newly elected Board members shall be deemed to have taken office.
  - 8.3 Within fifteen (15) days of the election, the Board shall publicize the results of the election in a communication directed to all members.
9. **Other voting/Campaign Issues.**
- 9.1 There are 176 units/lots in the Association, but owners whose voting rights have been suspended in accordance with the Association's governing documents after notice and hearing shall not be entitled to vote.
  - 9.2 Cumulative voting is permitted if allowed by the Association's Bylaws.
  - 9.3 Association funds may not be used for "campaign purposes" in connection with any board election. The term "campaign purposes" is defined to include, without limitation, (1) "expressly advocating the election or defeat" of any candidate that is on the ballot; or (2) "including the photograph or prominently featuring the name of a candidate on a communication" from the Association (except the ballot and voting materials and equal access communication sent pursuant to the Section, above entitled "Campaigning").

SAMPLE – NON CUMULATIVE VOTING

OFFICIAL SECRET BALLOT  
\_\_\_\_\_  
ASSOCIATION  
A California Nonprofit Mutual Benefit Corporation

[2006] Election of Board of Directors

The Association is electing **[number of directors written out]** **[number of directors being elected – numerical]** Directors. The **[number of nominees]** nominees receiving the highest number of votes shall serve for a term of **[term]** years. Should you cast more than **[number of directors being elected]** votes, your ballot will not be valid and your votes will not be counted. Please vote with an “X” by the nominee’s name.

| NOMINEES | VOTE  |
|----------|-------|
| _____    | _____ |
| _____    | _____ |
| _____    | _____ |

This Ballot must be delivered to the Inspectors of Election at **[address]** either by United States Postal Service, overnight delivery service, or hand delivered to said location on or before the annual meeting or a special meeting of the Board..

**SAMPLE – CUMULATIVE VOTING**

OFFICIAL SECRET BALLOT  
\_\_\_\_\_  
ASSOCIATION  
A California Nonprofit Mutual Benefit Corporation

**[2006]** Election of Board of Directors

The Association is electing **[number of directors written out] [number of directors being elected – numerical]** Directors. The **[number of nominees]** nominees receiving the highest number of votes shall serve for a term of **[term]** years. Because there are more than two seats up for election, cumulative voting IS permitted. You may cumulate your votes which means that if you own one unit you may cast **[number of directors being elected]** votes. You may give all votes on one candidate or distribute them among several candidates as long as the total votes cast are not more than **[number of directors being elected]**. If you cast more than **[number of directors being elected]** votes, your ballot will not be valid and your votes will not be counted. Please place the number of votes by the nominee's name.

| NOMINEES             | VOTE    |
|----------------------|---------|
| _____                | _____   |
| _____                | _____   |
| _____                | _____   |
| TOTAL - NO MORE THAN | [_____] |

This Ballot must be delivered to the Inspectors of Election at **[address]** either by United States Postal Service, overnight delivery service, or hand delivered to said location on or before the annual meeting or special meeting of the Board.

**SAMPLE – VOTING INSTRUCTIONS & Q & A**

OFFICIAL VOTING INSTRUCTIONS FOR SECRET BALLOTS AND  
QUESTIONS & ANSWERS

\_\_\_\_\_ ASSOCIATION  
A California Nonprofit Mutual Benefit Corporation

**[2006]** Election of Board of Directors

VOTING INSTRUCTIONS

1. The Association is electing **[number of directors being elected – written out] [number of directors being elected – numerical]** Directors. The **[number of nominees]** nominees receiving the highest number of votes shall serve for a term of **[term]** years. Should you cast more than **[number of directors being elected]** votes, your ballot will not be valid and your votes will not be counted. The actual Ballot is enclosed with this information and marked “Official Ballot”. The **[number of nominees]** nominees receiving the highest number of votes shall serve for a term of **[term]** years. Because there are more than two seats up for election, cumulative voting IS permitted. You may cumulate your votes which means that if you own one unit you may cast **[number of directors being elected]** votes. You may give all votes on one candidate or distribute them among several candidates as long as the total votes cast are not more than **[number of directors being elected]**.
2. After you have finished voting, place your completed Ballot into the blue colored envelope entitled “Official Ballot Envelope”.
3. Place the “Official Ballot Envelope” (containing the completed Ballot) into the white colored “Second Envelope”. Seal the Second Envelope and print your name, address and lot/parcel/unit number in the upper left hand corner of the front of the envelope, then sign the Second Envelope in the space provided.
4. Place your Second Envelope into the United States mail, private overnight mail service, OR deliver your envelope to the Inspector(s) of Election at **[insert address]**.the annual meeting or special meeting of the Board.
5. All votes received on or before the annual meeting or special meeting of the Board to be counted and tabulated by the Inspector(s) of Election in public at the annual meeting or special meeting of the Board on **[date]**, starting at **[time]**. The business portion of the annual meeting will start at **[time]**.

## FREQUENTLY ASKED QUESTIONS

1. How do I vote my Ballot?  
Refer to the instructions on the Ballot and items 1 through 5 above.
2. Do I sign the Ballot?  
No.
3. Do I sign the Second Envelope?  
Yes. There is space on the Second Envelope that does require your signature to comply with Civil Code 1363.03(e)(1). The Second Envelope MUST also contain your name, return address and lot/parcel/unit number.
4. When must I return my voted Ballot?  
Please see the Voting Instructions above which show the date by which the Ballots must either be delivered to the location designated by the Inspector(s) of the Election by either the U. S. Mail, overnight delivery service, or hand delivered to said location.
5. If I lose my Ballot that was sent to me, can I get another one?  
Yes, Contact the Inspector(s) of Election at **[insert contact information]**.  
  
However, you must sign a statement under penalty of perjury that you either lost, destroyed or did not receive the first Ballot. The Inspector(s) of Election shall maintain a record of each such request and if it is determined that the Owner voted twice, even by mistake, neither ballot will be counted.
6. How are Ballots Counted?  
Ballots are counted and tabulated by the Inspector(s) of Election in public at the Annual Meeting following the deadline for receipt of Ballots. Any nominee or other Member of the Association may witness that counting and tabulation of the votes.

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Name

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Address

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Lot/Parcel/Unit number

I appoint the Association's Secretary as my  
Proxyholder limited to establishing a quorum for  
The 2006 Annual Meeting

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Signature of Owner

SECOND ENVELOPE

Inspectors of Election for \_\_\_\_\_ Association  
P.O. Box 2817  
Camarillo, CA 93011-2817

**(Number 10 envelope – (white color))**

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OFFICIAL BALLOT ENVELOPE  
**(Number 9 envelope (light blue color))**

# Nomination Application

\_\_\_\_\_ Association

This form is provided for Owners who wish to run for the Board of Directors. You may nominate yourself. Should you nominate someone else, please be sure they are willing to serve. The Association may contact them to confirm. Depending upon the number of applications, the Board may or may not include a copy of this form, but will provide a synopsis, as an enclosure with the notice of the Election and the Secret Ballot

I, \_\_\_\_\_, hereby submit for nomination to the Board of Directors of \_\_\_\_\_ Association, [name of nominee] \_\_\_\_\_ [ for the election, to be held \_\_\_\_\_, 200\_.. ]

## **INFORMATION:**

How long has the nominee lived within the Association? \_\_\_\_\_

Have they ever served as a board member of a non-profit organization? \_\_\_\_\_ If so what officer position did they hold? \_\_\_\_\_

State the reason for the Nomination. \_\_\_\_\_

\_\_\_\_\_

What is the nominee's occupation?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Goals for the Association

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_ Address:

\_\_\_\_\_

Home Phone #: (\_\_\_\_)-\_\_\_\_-\_\_\_\_ Work Phone#: \_(\_\_\_\_)-\_\_\_\_-\_\_\_\_\_

Fax Phone #: \_ (\_\_\_\_)-\_\_\_\_-\_\_\_\_ Email \_\_\_\_\_

**Please return this completed form in the envelope provided.**

Information to be provided in a layout so each voting homeowner may know a little about you.