



The Morgan Hill Community Garden  
P.O. Box 1862  
Morgan Hill, CA 95038

[info@mhcommunitygarden.org](mailto:info@mhcommunitygarden.org)  
[www.mhcommunitygarden.org](http://www.mhcommunitygarden.org)

**BYLAWS 2020**  
**MORGAN HILL COMMUNITY GARDEN**  
A California Public Benefit Nonprofit Corporation

**ARTICLE I**  
**NAME**

The name of this corporation shall be The Morgan Hill Community Garden.

**ARTICLE II**  
**PRINCIPAL OFFICE**

The principal office for the transactions of the activities and affairs of the corporation shall be within the County of Santa Clara, State of California, and may be fixed at such place as the Board of Directors of the corporation shall determine from time to time.

**ARTICLE III**  
**GENERAL PURPOSE AND PRINCIPALS**

The specific purpose of this corporation is to improve the quality of life for the people in the city of Morgan Hill by creating a communal space in which residents can grow flowers, fruits, and vegetables; become more educated about environmental sustainability and responsibility; stimulate social interaction in the form of charitable pursuits in the community; and create and preserve a beautiful green space.

**ARTICLE IV**  
**MEMBERSHIP**

**SECTION 1. DEFINITION**

A member is someone who has been granted privileges to a particular plot or plots and who agrees to and abides by the current Gardening Policies of the Morgan Hill Community Garden.

**SECTION 2. PROSPECTIVE MEMBER**

Membership is available on a first come, first served basis. If all garden plots are occupied, prospective members are placed on a waiting list maintained by the President. The prospective gardener must complete the Garden Registration, Agreement and Waiver form, and pay their annual fee before gardening.

### SECTION 3. WAITING LIST MANAGEMENT

Prospective members are added to the waiting list according to the date of their request. If a prospective member is offered a plot and declines, their name will go to the bottom of the waiting list if requested.

### SECTION 4. TERMINATION OF MEMBERSHIP

Membership and plot privileges may be revoked by a vote of the MHCG Board of Directors for violation(s) of the current Gardening Policies.

Termination of membership and plot privileges is presented in detail in the Gardening Policies, VI, including method of appeal. The decision of the Board of Directors is final.

## ARTICLE V GOVERNANCE

### SECTION 1. DEFINITION

The MHCG Board of Directors is responsible for decisions regarding the membership and also current and future Garden activities. Board members develop, interpret, and enforce the Garden Policies (separate document). Only Garden members may join the Board of Directors. Only one person per plot may serve on the Board of Directors at any time.

The number of Board members will be no less than four (4 ) and no more than nine (9).

### SECTION 2. VOTING RULES

Votes may be taken at Board of Director meetings only in the presence of a quorum. A quorum is defined as a simple majority of those Directors attending to pass. Decisions to remove a Director, evict a member, amend the Bylaws or Gardening Policies require a majority vote of current Board members in favor to pass. All Board members must be notified before any action to vote on Garden Policies, Bylaw changes, or Board member expulsions.

### SECTION 3. BOARD OF DIRECTORS

The Board of Directors is responsible for developing, interpreting, and enforcing the Gardening Policies (separate document). It is the obligation of the Board to review the Gardening Policies with the Bylaws on an annual basis, to be certain that both documents are fair, consistent, and up-to-date.

Additionally, The Board is responsible for:

- developing long-range plans for the continuation and improvement of the MHCG and the MHCG organization.
- planning, arranging, and publicizing MHCG sponsored activities intended for the benefit and enjoyment of its membership and the surrounding community. They include, but are not limited to educational and charitable activities or events.
- recruiting MHCG members to fill Board and committee positions.
- amending the Bylaws and Gardening Policies when necessary.
- convening meetings of the Board on a regular basis to address concerns in the MHCG.

#### SECTION 4. BOARD OF DIRECTORS MEMBERSHIP

Membership on the Board of Directors is voluntary and open to Garden members in good standing. Board members serve a two-year term. When a Director's term expires, a garden member may be elected to fill the vacant Director position at the annual November General Meeting. A Director may volunteer to be re-elected at the annual November General Meeting. Continued membership is contingent on fulfilling the requirements of Board membership as defined by the Board of Directors. To retain membership on the Board a member must meet the following requirements:

- Remain a member in good standing of the MHCG.
- Attend Board meeting regularly with no more than two absences at Board meetings per year and also fulfilling any commitments scheduled for completion by the time of the meeting.

If a Board member does not fulfill the above requirements the option to remove a Board member may be used. See Section 5, Removing a Board Member below.

#### SECTION 5. REMOVING A BOARD MEMBER

Although members of the Board serve a fixed term, a member may under certain circumstances be removed by a majority vote of the full Board. Differences of opinion are expected and respected and do not, of themselves, constitute grounds for dismissal of a member. If a member fails to meet the requirements of Board membership (Section 4), is unable to meet individual and group responsibilities, or demonstrates illegal or unethical behavior or a pattern of disruptive behavior, other members may request a discussion of the particulars and a vote for removal of the member. Discussion and vote of the Board to remove a Board member will be conducted in closed session unless the Board member being considered for removal requests the discussion and vote be conducted in an open meeting.

#### SECTION 6. PROCEDURE FOR A COMPLAINT AGAINST A BOARD MEMBER

1. The Board receives a written complaint to the Board on a prepared complaint form with an optional written letter, or email. The complainant will receive a reply indicating it was received.
2. The Board will get a response from the Board member in the complaint in writing within two weeks. The Board member will receive a reply by the President indicating that the reply has been received.
3. The Board will hold a special closed Board meeting to review both the complaint and the Board member response within two weeks of receiving the response from the Board member.
  - a) A simple majority of the Board will take action.
4. The Board will make every attempt to complete a written response stating the action taken by the Board within 60 days.

## ARTICLE VI OFFICERS

There shall be four officers on the Board: President, Vice President, Secretary, and Treasurer. Officers will serve two-year terms. The terms of the President and Vice President end January 31 in odd numbered years. The terms of the Secretary and Treasurer end January 31 in even numbered years.

- (a) President- The President shall convene and conduct the Board meetings, and shall preside over formation and management of Committees as described in these bylaws.
- (b) Vice President- The Vice President shall preside over the Board meetings and Committees in the absence of the President.
- (c) Secretary- The Secretary shall keep records of board actions during Board meetings by writing minutes. The Secretary shall send notices of board meetings, supporting documents, agendas, and Board minutes to the Board. The Secretary will assemble the Board meeting agenda via input from Board members and Garden members.
- (d) Treasurer- The Treasurer shall be responsible for keeping all financial records. Tasks include collecting annual gardening fees every January and depositing the funds, paying City water fees, and annual liability insurance premium. The Treasurer shall make timely filing of all necessary records and tax returns. At each Board meeting the Treasurer shall report the financial transactions occurring since the last Board meeting. Annually, the Treasurer shall prepare a Statement of Accounts detailing the status of the Garden's assets, including its physical inventory. Annually, the Treasurer shall propose an annual budget for the Board's approval.

In the event of a board opening between elections, the President may recommend to the Board for action the name of a replacement person to fulfill the term of the vacancy.

## ARTICLE VII COMMITTEES

### SECTION 1. COMMITTEE FORMATION

The Board of Directors may create committees as needed. Garden members in good standing may volunteer to be on a committee. Only one garden member per plot may be on a committee. The Board will approve a chairperson and members on each committee. The committee chairperson will submit an oral or written report at each Board meeting.

### SECTION 2. GARDEN OVERSIGHT COMMITTEE

The Garden Oversight Committee will be a standing committee consisting of 3-5 members with the following responsibilities:

- Monitor the MHCG: work with members to ensure compliance with the Gardening Policies, issue citations, and make member eviction recommendations to the Board for action.
- Make recommendations to the Board regarding how to reduce violation of Gardening policies.
- Recommend and submit to the Board for action changes to the Gardening Policies.

### SECTION 3. WORK DAY COMMITTEE

The Work Day Committee will be a standing committee consisting of 3-5 members with the following responsibilities:

- Schedule work days, identify the tasks, and provide oversight for Garden work days.
- Collect and maintain records of attendance and report work day attendance to the Oversight Committee.
- Advertise work day dates. (for example: annual work day calendar and monthly work days on bulletin board and by emails to garden members)

## ARTICLE VIII MISCELLANEOUS

### SECTION 1. AMENDMENTS

These Bylaws may be adopted, amended, or repealed by the Board of Directors.

### SECTION 2. NON-DISCRIMINATION

The corporation shall comply with all federal, state, and local laws prohibiting unlawful discrimination.

### SECTION 3. POLICIES

Upon the adoption of these Bylaws, the Morgan Hill Community Garden also formally adopts the following policies:

#### I. Conflict of Interest Policy and Disclosure of Certain Interests

This conflict of interest policy is designed to help directors, officers, members, and volunteers of the Morgan Hill Community Garden (MHCG) identify situations that present potential conflicts of interest and to provide the MHCG with a procedure that will allow a transaction to be treated as valid and binding even though a director, officer, member or volunteer has or may have a conflict of interest with respect to the transaction. In the event there is an inconsistency between the requirements and procedures prescribed herein and those in federal or state law, the law shall control.

#### CONFLICT OF INTEREST DEFINED.

The following circumstances create Conflicts of Interest according to this policy.

#### Outside Interests

(a) A contract or transaction between the MHCG and a responsible person or family member. (b) A contract or transaction between the MHCG and an entity in which a responsible person or family member has a material financial interest or of which such person is a director, officer, agent, partner, associate, trustee, personal representative, receiver, guardian, custodian, conservator, or other legal representative.

Outside Activities

(a) A responsible person competing with the MHCG in the rendering of services or in any other contract or transaction with a third party. (b) A responsible person's having a material financial interest in: or serving as a director, officer, employee, agent, partner, associate, trustee, personal representative, receiver, guardian, custodian, conservator, or other legal representative of, or consultant to; an entity or individual that competes with the MHCG in the provision of services or in any other contract or transaction with a third party.

Gifts, Gratuities and Entertainment

A responsible person accepting gifts, entertainment, or other favors from any individual or entity that: (a) does or is seeking to do business with, or is a competitor of the MHCG; or (b) has received, is receiving, or is seeking to receive a loan or grant, or to secure other financial commitments from the MHCG; (c) is a charitable organization; under circumstances where it might be inferred that such action was intended to influence or possibly would influence the responsible person in the performance of his/her duties. This does not preclude the acceptance of items of nominal or insignificant value or entertainment of nominal or insignificant value that are not related to any particular transaction or activity of the MHCG.

DEFINITIONS

A *conflict of interest* is any circumstance described above. A *responsible person* is any person serving as an officer or director on the Board of the MHCG. A *family member* is a spouse, domestic partner, parent child or spouse of a child, brother, sister, or spouse of a brother or sister of a responsible person. *Material financial interest* in an entity is a financial interest of any kind that, in view of all the circumstances, is substantial enough that it would, or reasonably could, affect a responsible person's or family member's judgment with respect to transactions to which the entity is a party. This includes all forms of compensation. A *contract or transaction* is any agreement or relationship involving the sale or purchase of goods, services, or rights of any kind, the providing or receipt of a loan or grant, the establishment of any other type of pecuniary relationship, or review of a charitable organization by the MHCG. The making of a gift to the MHCG is not a *contract or transaction*.

PROCEDURES

1. Before board or committee action on a contract or transaction involving a conflict of interest, a director or committee member having a conflict of interest and who is in

attendance at the meeting shall disclose all facts material to the conflict of interest. Such disclosure shall be reflected in the minutes of the meeting.

2. A director or committee member who plans not to attend a meeting at which he or she has reason to believe that the board or committee will act on a matter in which the person has a conflict of interest shall disclose to the chair of the meeting all facts material to the conflict of interest. The chair shall report the disclosure at the meeting and the disclosure shall be reflected in the minutes of the meeting.

3. A person who has a conflict of interest shall not participate in or be permitted to hear the Board's or committee's discussion of the matter except to disclose material facts and to respond to questions. Such person shall not attempt to exert his or her personal influence with respect to the matter, either at or outside the meeting.

4. A person who has a conflict of interest with respect to a contract or transaction that will be voted on at a meeting shall not be counted in determining the presence of a quorum for purposes of the vote. The person having a conflict of interest may not vote on the contract or transaction and shall not be present in the meeting room when the vote is taken, **unless** the vote is by **secret ballot**. Such person's ineligibility to vote shall be reflected in the minutes of the meeting. For purposes of this paragraph, a member of the board of directors of the MHCG has a conflict of interest when he/she stands for election as an officer or for re-election as a member of the board of directors.

5. Responsible persons who are not members of the board of directors of the MHCG, or who have a conflict of interest with respect to a contract or transaction that is not the subject of board or committee action, shall disclose to the chair or the chair's designee any conflict of interest that such responsible person has with respect to a contract or transaction. Such disclosure shall be made as soon as the conflict of interest is known to the responsible person. The responsible person shall refrain from any action that may affect the MHCG's participation in such contract or transaction.

6. In the event it is not entirely clear that a conflict of interest exists, the individual with the potential conflict shall disclose the circumstances to the chair or the chair's designee, who shall determine whether there exists a conflict of interest that is subject to this policy.

#### CONFIDENTIALITY

Each responsible person shall exercise care not to disclose confidential information acquired in connection with such status or information the disclosure of which might be

adverse to the interests of the MHCG. Furthermore, a responsible person shall not disclose or use information relating to the business of the MHCG for the personal profit or advantage of the responsible person or a family member.

#### REVIEW OF POLICY

Each new responsible person shall be required to review a copy of this policy and to acknowledge in writing that he/she has done so. Each responsible person shall annually complete a written disclosure identifying any relationships, positions, or circumstances in which the responsible person is involved that he/she believes could contribute to a conflict of interest arising. Such relationships, positions, or circumstances might include service as a director of or consultant to a non-profit organization, or ownership of a business that might provide goods or services to the MHCG. Any such information regarding business interests of a responsible person or a family member shall be treated as confidential and shall generally be made available only to the MHCG president and any committee appointed to address conflicts of interest, except to the extent additional disclosure is necessary in connection with the implementation of this policy. This policy shall be reviewed annually by each member of the board of directors. Any changes to the policy shall be communicated immediately to all responsible people.

#### THE MHCG BOARD OF DIRECTORS

In a separate letter to the MHCG President, board members shall describe any relationships, positions, or circumstances in which they are involved that could contribute to a conflict of interest arising (as defined in this MHCG Conflict of Interest Policy).

### II. Whistleblower Protection Policy

Morgan Hill Community Garden (MHCG) requires directors, officers, and members to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As members and representatives of the Morgan Hill Community Garden, directors must practice honesty and integrity in fulfilling responsibilities and complying with all applicable Bylaws and Policies.

#### Reporting Responsibility

This Whistleblower Policy is intended to encourage and enable members to raise serious concerns internally so that the MHCG can address and correct inappropriate conduct and actions. It is the responsibility of all directors, officers, members, and



volunteers to report concerns about violations of MHCG's Bylaws and Policies within 90 days of discovering the violation.

#### No Retaliation

It is contrary to the values of the MHCG for anyone to retaliate against any director, officer, member, or volunteer who in good faith reports a suspected violation of Bylaws and Policies. Any director, officer, member, guest or volunteer who retaliates against someone who has reported a concern in good faith is subject to discipline up to and including termination of membership.

#### Reporting Procedure

MHCG has an open door policy and suggests that members share their questions, concerns, suggestions or complaints with the President. If you are not comfortable speaking with the President or you are not satisfied with their response, you are encouraged to speak with any Board member. The President is required to report complaints or concerns about suspected Policy or Bylaws violations in writing to the MHCG's Board of Directors, who has the responsibility to investigate all reported complaints. Members with concerns or complaints may also submit their concerns in writing directly to the President, or other Board members.

#### Board of Directors

The Board of Directors is responsible for ensuring that all complaints about conduct against Policies and Bylaws are investigated and resolved.

Accounting Matters The MHCG's Board members shall immediately notify the Treasurer and the President of any concerns or complaints regarding MHCG's accounting practices and work with the Treasurer and President until the matter is resolved.

#### Acting in Good Faith

Anyone filing a written complaint concerning of Policies and Bylaws or suspected violation must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.

#### Confidentiality

Violations of Policies and Bylaws or suspected violations may be submitted on a **confidential** basis by the complainant. Reports of violations or suspected violations will

be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

Disclosure of reports of violations to individuals not involved in the investigation will be viewed as a serious disciplinary offense and may result in discipline, up to and including dismissal from the volunteer position held.

#### Handling of Reported Violations

The MHCG's Secretary will acknowledge receipt of the complaint to the person who submitted the complaint with a copy to the President. All reports will be promptly investigated and appropriate corrective action will be taken if warranted by the investigation results.

### III. EXPENSE REIMBURSEMENT POLICY

Purchases of items deemed necessary for the operation and administration of MHCG shall normally be made by the Treasurer of the Garden using the Garden's debit card. Items will be identified by the officers or members of the Board of Directors of MHCG.

Monies for garden operation purposes will be allocated in the annual budget. Monies for purchases exceeding the budgeted amounts must be approved by the Board prior to the expenditure.

Should a Gardener feel that expenditures need to be made for some purchase, that individual should present the proposed expenditure to the Board for approval. Board approval will include a not-to-exceed amount for the purchase. The Gardener will be reimbursed upon presentation of the sales receipt(s) to the Treasurer.

#### SECTION 4. PUBLIC DISCLOSURE

All documents pertaining to the governance, compliance and operation of the Morgan Hill Community Garden will be available to the general public, either through the corporation's website, another supported website, or at the primary location of the corporation's books. All documents made available to the public, as required by law, will be put through a Board of Directors review first.

#### CERTIFICATE OF SECRETARY

I, the undersigned, certify that I am the Secretary of the Morgan Hill Community Garden, a Nonprofit Corporation, and the above Bylaws are the Bylaws of this Corporation. Executed on \_\_\_\_\_ at Santa Clara County, California.

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Secretary, the Morgan Hill Community Garden