

# **Northridge Heights Community Association**

## **Election Rules and Voting Procedures**

[Civil Code Section 1363.03]

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**Election Rules and Voting Procedures**  
**[Civil Code Section 1363.03]**

The following Association election rules are adopted by the Board of Directors, pursuant to Civil Code Section 1363.03 and 1363.04, effective July 1, 2006.

These Rules are intended to comply with Section 1363.03 and 1363.04, and are intended to govern votes of the association membership. In addition to following the law, these rules are intended to enhance the fairness and professionalism of the Association's membership voting.

## **I. INSPECTORS OF ELECTION**

### **A. Selection**

1. **By Board at First Meeting.** Inspectors of Election shall be selected by the Board at the first Board meeting following an Annual Meeting of the Association. The Board shall meet in open session to select one (1) or three (3) Inspectors of Election of the association for any elections up through and including the next Annual Meeting.
2. **By Board Prior to Any Election.** If the Board has not previously designated Inspectors of Election, at least ninety (90) days before any Association vote or election for the categories set forth in these rules, the Board, at a duly noticed open Board meeting, shall vote for the appointment of one (1) or three (3) persons to serve as Inspectors of Elections.
3. **By Board to Fill Vacancy.** In the event one or more of the Inspectors of Election are unable or unwilling to serve out their term, or are unable or unwilling to serve in a particular election, alternatively, the Board may fill the vacancy, or may designate the Association's managing agent to act as the Inspector of Election for the purposes of receiving ballots only.
4. **By Members in Attendance.** If the Board of Directors has not already selected Inspectors of Election, then Inspectors of Election may be selected by the members in attendance at a membership voting meeting. The members may also replace the Inspectors of Election selected by the Board of Directors. If Inspectors are selected by the members in attendance, the members shall select three (3) Inspectors. The selection by the membership of Inspectors of Election shall be upon a majority of those present, and may be upon a voice vote.

### **B. Inspector Qualifications**

1. Inspectors of Election must be members of the Association, or, alternatively, must be:
  - a. Volunteer poll worker with the county registrar of voters;
  - b. A licensee of the California Board of Accountancy; or
  - c. A notary public; or

- d. A person currently employed by or under contract with the Association.
- 2. Inspectors of Election must not be a director or a candidate for any election, nor related by blood or marriage to any candidate for election
- 3. Inspectors must agree to familiarize themselves with these rules and to be present at any membership voting meetings or ballot counting during their term.
- 4. Inspectors of Election must avoid any favoritism or partiality to any candidate or point of view, and must be committed to conducting a fair and honest election, in full compliance with these rules.

**C. Decisions**

- 1. The Inspector(s) of Election shall act by majority vote, and the decision or act of a majority shall be effective in all respects as the decision or act of all.
- 2. The Inspector(s) of Election may appoint and oversee additional persons to count and tabulate votes as the Inspector(s) deem necessary and appropriate.

**D. Inspector Duties**

**Inspectors of Election Shall:**

- 1. Perform their duties impartially, in good faith, to the best of his or her ability, and as expeditiously as is practical.
- 2. Determine the number of memberships and the voting power of each, if necessary.
- 3. Determine the validity, authenticity and effect of proxies, if proxies are used.
- 4. Receive and hold ballots or direct where ballots are to be returned and held until votes are tallied.
- 5. Hear and determine any challenges and questions regarding voting issues.

6. Open all secret ballot envelopes received, and tabulate all votes cast.
7. Determine times for beginning and end of voting at meetings where votes will be tallied for the particular vote or election; however, the date, time and place of the meeting shall be determined by the Board of Directors.
8. Issue a report certifying the results of the election. A report from the Inspector or Inspector(s) of Election is prima facie evidence of the facts stated in the report. **See sample attached.**
9. Maintain custody of all ballots for the particular vote or election until they are turned over to the Association after the votes are tabulated, and the election or vote certified.
10. Perform such acts as may be proper to conduct the election with fairness.

## **II. NOTICE OF MEMBERSHIP MEETINGS**

At least thirty (30) days advance written notice must be given to the membership of any meeting at which a membership vote is to be taken.

### **III. NOMINATION PROCEDURES (Applicable Only to Meetings Electing Directors)**

- A. Nomination Forms.** Sixty (60) days before the date set for the Annual Meeting, Request for Nomination to the Board forms shall be mailed to all members.
- B. Deadline.** Completed nomination forms shall be returned to the Association managing agent, or the Association Secretary if the Association has no managing agent, hand delivered or postmarked, no later than forty-five (45) days prior to the date set for the Annual Meeting.
- C. Late Forms.** Any nomination form hand delivered or postmarked later than forty-five (45) days prior to the Annual Meeting will not be included in the secret written ballot procedure mailed in accordance with these rules; however, candidates may be nominated from the floor at the membership meeting.
- D. Forms Content.** Completed nomination forms shall include a representation that the nominated member is a member in good standing, meets all qualifications for membership, and has agreed to place his or her name in nomination.
- E. Candidate's Statement.** Completed nomination forms shall also include a candidate's statement of 100 words or less, or indicate that the candidate has declined to submit a statement. The Association is not responsible for the content of any candidate statement submitted. If photographs are to be included, then equally sized photographs should be used for each candidate.
- F. Result of Failure to Comply.** Candidates/nominees that do not follow the aforementioned procedure may still be nominated at the election meeting.
- G. Self-nominations.** A member may nominate himself/herself, so long as the member meets the qualifications to serve as a director.
- H. Nominating Committee.** In the event a nominating committee is formed pursuant to the governing documents, the committee shall comply with these procedures in addition to those set forth in the governing documents.



#### **IV. BOARD CANDIDATE QUALIFICATIONS**

Candidates for election to the Board of Directors need not be members of the Association.

**V. CAMPAIGNING, CANDIDATE STATEMENTS, COMMON AREA ACCESS AND USE OF ASSOCIATION FUNDS**

- A.** Any candidate for the Board, or any member advocating a point of view on an issue which is to be voted upon, shall have equal access to any Association media, newsletters, or Internet Web sites during the campaign, for purposes that are reasonably related to the election or other vote which is being taken.
- B.** Equal Access shall be provided to all candidates and for all points of view, including those not endorsed by the board, for purposes that are reasonably related to the election.
- C.** The Association shall not edit or redact any content from any statement or election communication received from an owner. Any content published shall include the following statement:

**"These statements are from the candidates themselves, and not the Association. Neither the Association nor the Board of Directors is responsible for or necessarily endorses any of the views expressed in these statements."**

- D.** All Members shall have equal access to any Common Area meeting space, during a campaign, at no cost, for purposes reasonably related to the election.
- E.** Association funds shall not be used for campaign purposes, (as defined in Civil Code Section 1363.04(b)) in connection with any Board election or any other Association election except to the extent necessary to comply with duties of the Association imposed by law.

## VI. QUORUM

- A. **Quorum** is the minimum number of members which must be participating in order to enable the Association to do business, including take votes.
- B. In order for a member to count as participating, and therefore be included in the quorum, a member must either:
  - 1. Personally attend;
  - 2. Submit a ballot pursuant to these rules in advance of the meeting or ballot counting;
  - 3. Send to the Inspectors of Election a proxy to be used only for quorum purposes; or
  - 4. Provide a proxy to a person who attends on behalf of the member.
- C. For purposes of this Association, quorum, as set by Governing Documents is more than 50% of the voting power of the members represented. In addition, for purposes of Special Assessment votes, pursuant to Civil Code Section 1366, quorum means more than 50 percent of the owners of the Association, notwithstanding any provision of the Governing Documents. Quorum required for an adjourned membership meeting is 25 % of the voting power of the members.
- D. All ballots returned shall count for purposes of determining if quorum has been achieved for any particular vote or election.
- E. The existence of quorum shall be determined by the total of all ballots received in advance of the meeting, plus the total members represented in person or by proxy at any annual or special meeting held for purposes of the vote or election who have not previously returned ballots.
- F. Envelopes containing ballots cast prior to the meeting for counting shall not be opened for any reason but shall be date stamped and may be logged, organized and/or counted for quorum purposes only, prior to the tabulation by the Inspectors of Election.
- G. If quorum is not achieved, the meeting shall be adjourned by the vote of a majority of votes represented in person or by proxy, to a date according to the procedure set forth in the Governing Documents. The secret ballots received prior to the meeting at which the votes were to be counted shall be maintained by the Inspectors of Election in a secure location until the adjourned meeting date.

## VII. VOTING QUALIFICATIONS

- A. **No Splitting of Votes.** Each Unit or Lot is entitled to one vote on any matter for which a vote is taken. Fractional votes shall not be allowed.
- B. **Determination of Membership.** In the event of a dispute over the current Unit or Lot owner, the Unit or Lot owner(s) shall be determined by the latest recorded deed as of the date the written secret ballots were mailed to the owners.
- C. **Multiple Owners of Same Membership.** Where more than one person is identified as the record title owner of a Unit or Lot, the vote for such Unit or Lot shall be determined by the owners. Only one ballot may be submitted on behalf of a lot or unit. Any votes cast, with respect to any such Unit or Lot in violation of this provision, shall be null and void. Where multiple record owners of the same lot or unit are unable to agree as to how their vote shall be cast, and cast multiple ballots on behalf of a single unit or lot, no vote shall be counted for the matter in question; however, the ballot shall be counted for quorum purposes only. If any record owner exercises the voting rights of a particular Unit or Lot, it will be conclusively presumed for all purposes that the owner was acting with the authority and consent of all other owners of the same Unit or Lot.
- D. **Cumulative Voting.** Where the CC&Rs or Bylaws provide that an election is to be determined by cumulative voting, the number of votes per Unit or Lot shall be multiplied times the number of vacant positions on the ballot, to determine the total number of votes to be cast per Unit or Lot. The total votes may be cast among the candidates in any combination, as long as the total votes cast does not exceed the number of positions being elected.
- E. **Multiple Ballots Cast on Same Membership.** Where more than one ballot is received for a single Lot or Unit, the ballot shall not be tabulated for purposes of the particular vote or election; however, the Unit or Lot will be counted as voting for quorum purposes only.

## VIII. SECRET BALLOT PROCEDURE

- A. Notwithstanding any other law or provision of the governing documents, the following matters shall be decided by secret ballot, in accordance with the procedures set forth herein.

1. Election or recall of Directors;
2. Special Assessments requiring member approval;
3. Amendments to the Governing Documents requiring membership approval; and,
4. Grant of exclusive use common area pursuant to Civil Code Section 1363.07.

B. **Two Methods of Membership Decisions**

The Association may conduct the membership votes specified above by either of two methods. Decisions may be accomplished by either a meeting of the membership, or by a membership voting by written ballot without a meeting.

In voting by written ballot without a meeting, the members vote with written secret ballots and the secret ballots shall be opened in an open board meeting.

When a voting in conjunction with a membership meeting, members may vote by ballots cast in advance of the meeting or may attending and cast a ballot in person, or they may give their written proxy to another person who will attend the membership meeting and vote.

- C. In either type of membership vote or election, the following procedure shall be followed:

1. Ballots and two (2) 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 30 days prior to the meeting date or (if the membership is conducting a vote without a meeting) the deadline for voting. **In order to preserve confidentiality, a voter may not be identified by name, address or lot/unit number on the ballot. The ballot itself shall not be signed by the voter.**

2. The ballot shall be inserted into an envelope and sealed (Envelope No. 1). Envelope No. 1 is then inserted into a second envelope that is sealed (Envelope No. 2). In the upper left hand corner of Envelope No. 2, the voter prints and signs his or her name. In addition, Envelope No. 2 shall state the Member's address and shall indicate the lot/unit number that entitles him or her to vote. **See Samples Attached.**
3. Envelope No. 2 is addressed to the Inspector or Inspectors of Election, who will be tabulating the votes. The envelope may be mailed or delivered by hand to a location specified by the Inspector or Inspectors of Election. The Member may request a receipt for delivery.
4. The sealed ballots shall remain in the custody of the Inspectors of Election or maintained at the location designated by the Inspectors until after said ballots are tabulated and custody has been transferred to the Association.
5. Secret ballots received as specified by the Inspectors are irrevocable.
6. In the case of Election to the Board of Directors, the ballots shall list all candidates in a uniform fashion. No preference or endorsements may be indicated.

## **IX. Receipt, Handling, Care and Custody of Ballots**

- A.** Forty-five (45) days prior to the mailing of the secret ballots to the owners, the Inspectors of Election shall determine the location where the secret ballots are to be returned. The Inspectors may designate the Association manager's address as the location for return of ballots.
- B.** Secret ballots may be returned:
  - 1. By mail (it is the responsibility of the voting member to mail it with sufficient time so as to be received by the Inspectors by the date of the meeting);
  - 2. By hand delivery to the specified location; or
  - 3. By hand delivery to the meeting at which the votes will be tabulated. Only ballots returned prior to the closing of voting shall be counted.
- C.** Upon receipt, the secret ballot envelope shall not be opened. Ballots received shall be date stamped or otherwise noted with the date of receipt on the outer unopened envelope.
- D.** The sealed ballots at all times shall be in the custody of the Inspector or Inspectors of Election, or at the location designated by the Inspector or Inspectors, until after the tabulation of the vote, at which time custody shall be transferred to the Association.

## **X. PROXIES**

- A. Members**, as an alternative to voting by written secret ballot, may temporarily grant their right to vote to another person by use of a proxy.
- B.** Any member may designate another person as their "proxy," giving that person the authority to appear at a membership meeting and to vote on the member's behalf.
- C.** A proxy need not be in any particular form, but must be:
  - 1. Written;
  - 2. Dated;
  - 3. Signed by the giver of the proxy;
  - 4. State the member is granting to another the right to vote the member's interest in an association meeting.
- D.** A proxy may be revoked at any time by the member.
- E.** Proxies granted for a specific meeting shall expire upon the conclusion of the stated meeting (or any postponement or adjournment of that meeting). If the proxy does not refer to a specific meeting, and does not state a specific expiration date, it shall expire eleven (11) months after the date it is executed by the member.
- F.** Proxy Holder must be designated in the proxy, must be in attendance, and, must vote as designated. If no one is designated on the proxy, the proxy is void.
- G.** If a member who has given his or her proxy attends the meeting and registers to vote, the proxy is void.
- H.** If a member previously submitted a written secret ballot, any proxies issued by that owner for purposes of that election are void.
- I.** Dated proxies supersede undated proxies; Proxies dated later in time supersede earlier dated proxies; multiple proxies with the same date will be treated for quorum purposes only.
- J.** Unless stated otherwise on the proxy, a proxy expires automatically after eleven (11) months. The maximum term of any proxy is three (3) years from the date of execution.



## **XI. VOTING AT THE MEMBERSHIP MEETING**

- A.** The Inspector(s) of Election shall determine the time upon which registration of members attending a meeting will cease, but will not close registration of members and proxies until all members and proxy holders present at the time of the announced cut off of registration and waiting to be registered have done so. The Inspectors of Election shall make an announcement prior to close of registration to give an opportunity for all members in attendance to register.
- B.** Upon closure of registration of members and proxies, the matter to be voted upon shall be announced as per the Agenda for the meeting. If the matter to be voted upon is election of directors, nominations from the floor shall be invited. No nomination shall be received unless there is a second to the nomination. The eligibility of a nominee to serve as a director shall be determined by the Inspectors of Election, with the assistance of the Association's managing agent (if any).
- C.** After closure of nominations from the floor (if an election of directors) or the closure of debate (if another matter is being voted upon), the Inspector(s) of Election shall collect the ballots cast at the meeting by members and proxy holders. These ballots need not be placed in sealed envelopes, but shall not contain any information identifying the member or proxy holder casting the ballot.
- D.** After collection of the ballots cast at the meeting, the Inspector(s) of Election shall begin the process of counting the ballots.

## **XII. COUNTING VOTES – VOTING WITHOUT A MEETING**

The following procedures apply if a membership vote is taken by written ballot only without a meeting of the members:

- A.** All votes shall be counted by the Inspector(s) of Election in public, at a properly noticed open meeting of the Board of Directors or Association members.
- B.** The times for opening and closing of voting, for member registration and for cut off of registration at any meeting at which the tabulation of votes is to take place shall be determined by the Inspector(s) of Election.
- C.** Any candidate or other member of the Association may witness the counting of the votes; however, to avoid interference with the Inspectors and to ensure accuracy of the tabulation, no such person may come within five (5) feet of any Inspector(s) of Election while the votes are being counted.
- D.** No person, including an Association member 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 counted and tabulated.
- E.** The unopened envelopes containing the secret ballots may be counted prior to the vote tabulation for purposes of determining the presence of a quorum.
- F.** Any secret ballot envelope that is opened prior to the tabulation by the Inspectors of Election will not be counted for purposes of the vote or election but will be counted for quorum purposes only.
- G.** Where the name of the Lot or Unit number on the upper left hand corner of a returned secret ballot differs from the name of the owner of record on file with the Association as of the date of the meeting, the envelope will not be opened and the ballot will not be counted, but the ballot will be counted for quorum purposes only.
- H.** As ballots are counted, votes shall be recorded or tabulated in a procedure to be decided by the Inspector(s) of Election. However, at least one tally sheet shall be kept, recording the votes counted.
- I.** In the event of any ballots which are disputed or unclear, those ballots shall be set aside until the counting of all other ballots is complete.

- J. If the ballots set aside would not affect the outcome of the election, the Inspector(s) need not take any further action regarding those ballots, but shall keep them separate from the other votes, and note in the tally the number of ballots which were not counted.
- K. If the ballots set aside as disputed or unclear would affect the outcome of the election, the Inspector(s) shall review each of the ballots in question and shall by majority vote determine if the ballot shall be counted. The Inspectors shall reasonably attempt to give meaning to every ballot.
  - 1. A ballot casting too many votes may not be counted.
  - 2. A ballot may not be counted if it cannot be determined as to what the member voted.
  - 3. A ballot which contains writing or markings identifying the maker of the ballot shall not be rejected, but the Inspectors shall obliterate the writing or marking so that the ballot is secret and does not identify the maker.
  - 4. A ballot casting votes for a candidate not nominated shall be counted as to any votes it contains that were cast for nominees.
  - 5. An envelope containing more than one ballot shall result in all ballots contained therein being disregarded.
- L. After determining ballots which were rejected, those ballots shall be separated from the ballots which were counted. The tally sheet shall indicate how many ballots were not counted, but need not state the reasons for each ballot not counted.

### **XIII. COUNTING VOTES – VOTING IN MEETING OF MEMBERSHIP**

The following procedures shall be followed when the membership vote is taken in conjunction with a membership meeting where ballots will be counted.

- A.** The times for opening and closing of voting, for member registration and for cut off of registration at any meeting at which the tabulation of votes is to take place shall be determined by the Inspector(s) of Election.
- B.** Any candidate or other member of the Association may witness the counting of the votes; however, to avoid interference with the Inspectors and to ensure accuracy of the tabulation, no such person may come within five (5) feet of any Inspector(s) of Election while the votes are being counted.
- C.** No person, including an Association member 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 counted and tabulated.
- D.** The unopened envelopes containing the secret ballots may be counted prior to the vote tabulation for purposes of determining the presence of a quorum.
- E.** Any secret ballot envelope that is opened prior to the tabulation by the Inspector(s) of Election will not be counted for purposes of the vote or election but will be counted for quorum purposes only.
- F.** Where the name of the Lot or Unit number on the upper left hand corner of a returned secret ballot differs from the name of the owner of record on file with the Association as of the date the ballots were mailed, the Ballot will not be counted, but the Unit or Lot will be counted for quorum purposes only.

#### **XIV. ANNOUNCEMENT OF RESULTS**

- A.** The results of the vote or election shall be promptly reported to the Board of Directors of the Association, 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.
- B.** Within fifteen (15) days of the vote or election, the Board shall publicize the results of the election in a communication directed to all members. This may be done by posting of a notice in the same manner in which other notices are posted by the Association.

## **XV. RETENTION OF ELECTION RECORDS**

- A.** Election materials (i.e. the ballots, proxies, tally sheets and outer envelopes) shall be retained by the Association. The Inspector(s) of Election shall deliver the election materials to the Association's managing agent, or if the Association does not have a managing agent at the time, to the Association's Secretary
- B.** After tabulation, election ballots shall be stored by the Association at the office of the managing agent. In the event the Association has no managing agent, the ballots shall be stored by the Association Secretary in a secure place for no less than one year after the date of the election.
- C.** After one year, the election materials may be discarded.
- D.** Any member may inspect the election materials, upon reasonable notice to the Association's Managing Agent, or Secretary (in the event the Association does not at the time have a Managing Agent).
- E.** Under no circumstances shall the Inspector(s) of Election, the Association's Managing Agent, or the Secretary keep the election materials in a fashion which identifies the vote cast by any particular member or otherwise which destroys the secrecy of the balloting.
- F.** 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 association members or their authorized representatives. Any recount shall be conducted in a manner that shall preserve the confidentiality of the vote.
- G.** If there is any cost to the inspection, such as photocopying charges or charges by the managing agent for accommodating the inspection, such cost shall not be borne by the Association but shall be paid by the requesting member.

## CERTIFICATE OF SECRETARY

The herein election rules and voting procedures were adopted on \_\_\_\_\_  
by a vote of the Board of Directors.

\_\_\_\_\_  
Signature of Secretary

Dated: \_\_\_\_\_