

ELECTION RULES OVERVIEW
POINT LOMA WOODS HOMEOWNERS ASSOCIATION
November, 2006

Beginning July 1, 2006, associations are required to adopt election rules that apply to all elections requiring a vote by the membership, i.e., special assessments, CC&R and Bylaw changes, etc.

This document addresses the requirements of Civil Code 1363.03, which are listed separately at the end of this document. Point Loma Woods HOA, in its bylaws (dated March 31, 1981) and its Declaration of Restrictions (DOR) (dated March 27, 1981), already addresses and satisfies most of these specific requirements. This document reviews the existing rules in place and makes clarifications and additions as needed to comply with the new California civil code requirements.

Meetings of Members

Meetings of Members are clearly outlined in the Bylaws, Article VI. Types of meetings include annual meetings and special meetings.

Directors, Terms of Office, Duties, Nomination

Article VII of the Bylaws outlines that we will have 3 directors, who will together hold the offices of President, Vice President, Secretary, and Chief Financial Officer. Article VII further describes the terms of such directors and the duties of each. Nominations are conducted prior to the annual meeting or at the annual meeting. Any qualified member of the association may nominate himself or herself for election to the board of directors by submitting to the association a written statement signed and dated by the member nominating himself or herself. The self-nomination statement must be received by the association no later than the time set by the board for the close of nominations. Nominations to serve on the board may also be made from the floor at any meeting of the members at which directors are elected.

Ballots and Proxies

Ballots will be distributed with the notice of a meeting. The ballots will be used to submit absentee votes, provided that the ballots are concealed in sealed envelopes and that the member has signed and printed his or her name across the seal.

The association may use and accept proxies as permitted by law and the association's governing documents, provided that the association shall not be required to prepare or distribute proxies. Proxies shall not be interpreted to be ballots, and shall not be used in lieu of a ballot at a meeting. A proxy form is any instruction that directs the manner in which the proxy holder is to cast the vote shall be set forth on a separate page that can be detached and given to the proxy holder to retain. The proxy holder shall cast the member's vote by secret ballot unless the proxy is revoked by the member prior to the receipt of the ballot by the inspector of elections or his or her designee.

Notes on ballot markings:

- A. **Symbols.** A ballot which contains an unspecified number of votes shall be counted and tabulated as if it was the number “1” if any of the following appear: an “x”, a checkmark, or any symbolic designation indicating the voter’s intent to vote for any particular candidate, issue or ballot measure.
- B. **Signatures.** A ballot shall not be invalidated solely due to the inclusion of a signature thereon.

Inspectors of Election

A. Selection.

- **Process.** Prior to the date ballots are first sent out, the board of directors shall select one person as Inspectors of Election.
- **Eligible Inspectors.** The board is authorized to select independent third parties as Inspectors of Election including, but not limited to:
 - a. **Poll Worker.** A volunteer poll worker with the County Registrar of Voters,
 - b. **Accountant.** A licensee of the California Board of Accountancy, including any such licensee under contract to the association,
 - c. **Notary.** A notary public,
 - d. **Recording Secretary.** A recording secretary,
 - e. **Management Company Representative.** Representatives of any management company, including any such management company under contract to the association,
 - f. **Association Members.** Members of the association, but not: (i) members of the board, (ii) candidates for the board, (iii) persons related to a member of the board, or (iv) persons related to a candidate for the board.

B. Duties.

Duties of Inspectors of Election shall include the following:

- **Membership.** Determine the number of memberships entitled to vote and the voting power of each.
- **Validity.** Determine the authenticity, validity and effect of proxies, if any.
- **Closing of Polls.** Determine when the polls shall close.
- **Receive Ballots.** Receive all ballots. Once a secret ballot has been received by the Inspectors of Election, it shall be irrevocable.
- **Custody.** Maintain custody of the sealed ballots at all times. The sealed ballots at all times shall be in the custody of the inspector or inspectors of election or at a location designated by the inspector or inspectors until after the tabulation of the vote and until the time allowed by Section 7527 of the Corporations Code for challenging the election has expired, at which time custody shall be transferred to the association. 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 counted and tabulated.
- **Challenges.** Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.

- **Counting.** Count and tabulate all votes. All votes shall be counted and tabulated by the inspectors of election in public at a properly noticed open meeting of the board of directors or members. Any candidate or other member of the association may witness the counting and tabulation of the votes.
- **Appoint Assistants.** Appoint and oversee additional independent third parties to count and tabulate votes as the inspectors of election deem appropriate provided that such persons are not: (i) members of the board, (ii) candidates for the board, (iii) related to members of the board, or (iv) related to candidates for the board.
- **Results.** Determine the result of the election.
- **Impartiality.** Perform their duties impartially, in good faith, to the best of their ability, and as expeditiously as is practical. Any report made by the Inspectors of Election is prima facie evidence of the facts stated in the report.
- **Miscellaneous.** Perform any acts as may be proper to conduct the election with fairness to all members in accordance with Civil Code section 1363.03, the Corporations Code, the association's governing documents, and all applicable rules of the association regarding the conduct of the election that are not in conflict with Civil Code section 1363.03.

California Civil Code Specific Regulations

Here follows a listing of regulations from Civil Code 1363.03 (solid bullet items) and our specific HOA response (open bullet indented items), if needed:

- **Campaign Equal Access.** If any candidate or member advocating a point of view is provided access to association media, newsletters, or internet websites during a campaign, for purposes that are reasonably related to that election, the association must provide equal access to all candidates and members advocating a point of view.
 - Point Loma Woods HOA will comply with this requirement. No association funds will be made available to any candidate for election to the board of directors.
- **Campaign Statements.** Boards may not edit or redact content from campaign materials or communications. However, boards may include a statement specifying that the author, and not the association, is responsible for the content.
 - Point Loma Woods HOA will comply with this requirement.
- **Meeting Space.** Boards must ensure access to common area meeting space, if any exists, during a campaign, at no cost, to all candidates and to all members advocating a point of view for purposes reasonably related to the election.
 - Point Loma Woods does not have a common area meeting space, so this is not applicable.
- **Qualifications.** The election rules must specify the candidate qualifications.

- As stated in Article VII, Section 2 of the Bylaws, the 3 directors of the Point Loma Woods HOA can be any individual nominated and elected by the members of the Point Loma Woods HOA. The individual need not be a member of the HOA.
- **Nominations.** Nomination procedures are not reasonable if they disallow members from nominating themselves for election to the board.
 - Point Loma Woods HOA allows members to nominate themselves for election to the board. The board is elected in the annual meeting, typically held in May or June, and the invitation to the annual meeting will include an invitation to nominate individuals for election to the board of directors.
- **Voting Rules.** Election rules must specify the qualifications for voting, the voting power of each membership, the authenticity, validity, and effect of proxies, and the voting period for elections, including the times at which polls will open and close.
 - The DOR Article I specifies that the HOA contains 48 member units corresponding to the 48 physical lots that make up Point Loma Woods.
 - Each lot is represented by 1 vote by the owner of said lot.
 - Each lotholder may assign his vote, by proxy for a particular meeting of the HOA, to another member or to the board of directors. These proxies can then be voted at that meeting by the attending proxyholder
 - The voting period for elections starts with the mailing or delivery of the election notice and ballots, and ends during the meeting in which the election is held. The closing time of the election will be posted on the ballot. The election will be called to a close by the independent third party assigned to handle votes at the meeting.
- **Inspectors of Election.** Election rules must specify a method of selecting one or three independent third parties as inspectors of election.
 - The board of directors will select an independent third party to attend the annual meeting and any special meetings. That third party person will oversee the election, collect and count the ballots, and report the final total ballot counts to the board of directors and the members present at the meeting. If any individual at the meeting objects to the selection of the independent third party, that third party will be replaced with another until there is nobody at the meeting who is unsatisfied with the choice of independent third party.
- **Secret Ballots.** For elections regarding assessments, amending the governing documents, granting exclusive use to the common areas, or electing directors, balloting must be secret. However, the counting of the ballots must be done in front of the membership.
 - All ballots for Point Loma Woods HOA will be placed in a box and drawn at random and counted. Members who hold proxies from other members will be given an extra ballot per proxy. Parties who vote using an

absentee ballot will submit their votes in sealed envelopes, with their signature across the seal. The seals will be broken and the votes directly transferred into the ballot box during the meeting. All handling of ballots will be done by the independent third party.

- **Reporting Results.** Election results must be promptly reported to the board and then recorded in the minutes of the next board meeting and be made available for review by the membership.
- **Storing Ballots.** Prior to counting, sealed ballots at all times must be in the custody of the inspector or inspectors of election or at a location designated by the inspectors.
 - Ballots will be turned in to a board member in person or by mail, and these ballots will then be handed to the independent third party at the meeting to be opened and counted with the other votes. The inspector will verify the integrity of the sealed envelopes prior to accepting them. The ballots will be stored with the directors from the time of their submission until the meeting.
- **Election Challenge.** In the event of a recount or other challenge to the election process, the association must, upon written request, make the ballots available for inspection and review.
 - The Inspectors of Election will retain the ballots for a minimum of 1 year and make them available for review by members upon written request.