

**MONTECIDO AT PORTOLA HILLS
ASSOCIATION ELECTION RULES AND
PROCEDURES
Adopted February 19, 2020**

Campaigning

If any candidate or member advocating a point of view is provided access to Montecido at Portola Hills Association (“Association”) media, newsletters, or websites during a campaign, for purposes that are reasonably related to that election, all candidates and members advocating a point of view will be provided equal access.

Any views, comments or opinions set forth in any communication from a candidate or member are those solely of the candidate or member, and the Association is not responsible or liable for such content. The candidate or member, and not the Association, is solely responsible for the content of all materials and/or communications presented by the candidate or member.

Access to the common area meeting space will be provided 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. Members and residents shall not be prevented from peacefully assembling or meeting with members, residents, and their invitees or guests during reasonable hours and in a reasonable manner for purposes relating to association elections. Residents may use the common area and homes for an assembly when the common area is not otherwise in use. Canvassing, petitioning and circulating materials to the members in connection with an election is permitted if done in a reasonable manner and during reasonable hours and is not otherwise prohibited by law, municipal or otherwise.

Association funds will not be used for campaign purposes in connection with any Association Board election. Funds of the Association shall not be used for campaign purposes in connection with any other Association election except to the extent necessary to comply with duties of the Association imposed by law. For the purposes of this section "campaign purposes" include, but are not limited to, the following:

1. Expressly advocating the election or defeat of any candidate that is on the Association election ballot.
2. Including the photograph or prominently featuring the name of any candidate on a communication from the Association or the Board, excepting the ballot and ballot materials, within thirty (30) days of election, provided that this is not a campaign purpose if the communication is one for which the law requires that equal access be provided to another candidate or advocate.

Nominee Qualifications

The Association is required by law to disqualify a person from nomination as a candidate if the person is not a member of the Association at the time of the nomination. To be a "member" of the Association a person must be a record owner of a fee interest title to a Condominium within the Association.

Additionally, the Association may disqualify a person from nomination as a candidate based on any of the following:

If the nominee discloses, or if the Association is aware or becomes aware of, a past criminal conviction that would either prevent the Association from purchasing the fidelity bond coverage required by *Civil Code* section 5806 should the person be elected or terminate the Association's existing fidelity bond coverage as to that person should the person be elected.

If the person, if elected, would be serving on the board at the same time as another person who holds a joint ownership interest in the same separate interest parcel as the person and the other person has already been properly nominated for the current election or is an incumbent director.

If that person has not been a member of the Association for at least one year.

However, the foregoing option to disqualify a member shall not apply if the member has not been provided the opportunity to engage in IDR.

Voting Qualifications

Every person that is a member at the time the ballots are distributed is entitled to receive a ballot. Persons with a general power of attorney for a member shall be entitled to obtain a ballot and vote after providing a copy of the signed general power of attorney to the Association. Those with specific powers of attorney are generally not entitled to a ballot. Members shall be entitled to cast one (1) ballot for each Unit owned. In any election of the Board every member entitled to vote shall have the right to accumulate his/her votes and give one candidate, or divide among any number of candidates, a number of votes equal to the number of Directors to be elected.

If a record date for voting is not fixed by the Board of Directors, those who are members on the day of the meeting who are otherwise eligible to vote are entitled to vote at the meeting of the Association.

Joint Owner Disputes

When more than one person holds interest in any Condominium required for membership, each such person shall be a member and the vote for the Condominium shall be exercised as they among themselves determine, but in no event shall the total number of votes for each Condominium exceed one. The Association may, but shall not be obligated to, refuse to recognize the vote of any such co-owner, except the vote of the co-owner designated in writing executed by all such co-owners and delivered to the Association.

Voter List

The Association shall maintain a voter list to include the name, voting power, and either the physical address of the voter's lot, the parcel number, or both. The mailing address for the ballot shall be listed on the voter list if it differs from the physical address of the voter's Lot or if only the parcel number is used. Members may verify the accuracy of their individual information on the voter list at least thirty (30) days before the ballots are distributed. The Association or member shall report any errors or omissions to the list to the Inspector(s) who shall make the corrections within two (2) business days. The member should simultaneously convey this information to the management company.

Nomination Procedures

The Association will provide general notice, as defined by *Civil Code* section 4045, of the procedure and deadline for submitting a nomination at least thirty (30) days before any deadline for submitting a nomination.

An Election Committee shall be appointed annually by the Board to make rules for and supervise nominations, voting procedures, voting requirements and the orderly and fair election of directors. The Election Committee shall consist of a Chairman, who shall be a member of the Board, and two (2) other persons who shall be Members. The Election Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. If the Board of Directors does not appoint an Election Committee, it shall serve as the Election Committee. Nominations may also be made from the floor at the Annual Meeting. Self-nominations are permitted.

Candidate List

Members may verify the accuracy of their individual information on the candidate list at least thirty (30) days before the ballots are distributed. The Association or member shall report any errors or omissions to the list to the Inspector(s) who shall make the corrections within two (2) business days.

Pre-Election Notice

The Association shall provide general notice, as defined by *Civil Code* section 4045, at least 30 days before the ballots are distributed of the following:

1. The date and time by which, and the physical address where, ballots are to be returned by mail or handed to the inspector(s).
2. The date, time, and location of the meeting at which ballots will be counted.
3. The list of all candidates' names that will appear on the ballot.

Voting Procedures

The Bylaws for the Association authorize the use of secret ballots and proxies. Secret ballots will be provided to all members for their use.

Elections will be conducted in accordance with the following procedures:

1. The Inspector(s) shall cause the ballots and two pre-addressed envelopes (with instructions) to be delivered or mailed by first-class mail to every member not less than thirty (30) days prior to the election;
2. The Inspector(s) shall cause these Election Rules to be "delivered" to the members not less than thirty (30) days prior to the election. Delivery may be accomplished by posting these Election Rules to an internet website and including the corresponding internet website address on the ballot together with the phrase, in at least 12-point font: "The rules governing this election may be found here _____:" or by personal delivery or first-class mail.
3. Ballots are *not* to be signed by the voter and a member that places any identifying marks or signature on his or her ballot will waive his or her right to secrecy;
4. Completed ballots must be placed into an inner envelope that has no identifying information on it (*e.g.*, no member name, no property address, no signature, etc.), and the inner envelope is then sealed by the member;
5. The inner envelope is then inserted into the outer envelope that is pre-addressed to the Inspector(s) of Election and then sealed by the member;
6. In the upper left-hand corner of the outer envelope, the member must indicate his name and the address of the property within the Association and then the member must sign his or her name in the upper left-hand corner of the outer envelope. Ballots received in improperly completed envelopes (*e.g.*, not signed or without identifying information) may not be counted by the Inspector(s);

7. The envelope may be mailed or delivered by hand to the management office, unless another place is designated by the Inspector(s). The member may request a receipt for delivery;
8. Once a ballot is received by the Association, in the place designated by the Inspector(s), it is deemed irrevocable, even if it is unopened;
9. The sealed ballots shall be in the custody of the Inspector(s) or in the place designated by the Inspector(s) at all times;
10. No person may open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated; and
11. The voting period for member meetings shall commence when the first ballot is mailed or delivered to a member of the Association and shall end at such time as the Inspector(s) determine the polls close.

Use of Proxies

Every member entitled to vote or execute consents shall have the right to do so either in person or by proxy. All proxies must be in writing and filed with the Secretary of the Association. No such proxy shall be valid after the expiration of eleven (11) months from the date of its execution unless otherwise provided in the proxy, except that the maximum term of any proxy shall be three (3) years from the date of execution.

A proxy must (A) identify a proxyholder (who must physically attend the meeting for which the proxy is being exercised), (B) contain voting instructions, and (C) be signed by the member giving the proxy. Any instruction given in a proxy issued for an election that directs the manner in which the proxyholder is to cast the vote must be set forth on a separate page of the proxy that can be detached and given to the proxyholder to retain. The proxyholder must cast the member's vote by secret ballot. A proxy that does not satisfy these requirements may not be counted.

Revocable proxies concerning certain matters which require a vote of the members are not valid as to such matters unless it sets forth the general nature of the matter to be voted on. Those certain matters are as follows: (1) removal of a Director without cause, (2) filling vacancies on the Board created by removal of a Director, (3) approval of transactions involving Directors, (4) amendment of the Articles or By-laws repealing, restricting, creating or expanding proxy rights, (5) sale, lease, conveyance, exchange, transfer or other disposition of all or substantially all of the assets of the Association, (6) merger of the Association with another corporation, (7) amendment of an agreement to merger, (8) voluntary dissolution of the Association, and (9) distribution of the Association's assets upon dissolution.

Inspectors of Election

Inspector(s) of Election (“Inspector(s)”) will be appointed by the Board of Directors at a board meeting held prior to the election and will serve as Inspectors until such time that their successors are appointed by the Board of Directors. There shall be one (1) or three (3) Inspectors for the Association. If there are three (3) Inspectors, the decision or act of a majority shall be effective in all respects as the decision or act of all. Inspector(s) may be a member of the Association, but may not be a member of the Board, a candidate for the Board, or related to a member of the Board or candidate for the Board. An Inspector may not be a person or entity who or which is currently employed or under contract to the Association for any compensable services, other than inspection services.

Role of Inspectors of Elections

Inspector(s) will determine the number of memberships entitled to vote and the voting power of each in accordance with the Association's governing documents. Inspector(s) will determine the authenticity, validity, and effect of proxies, if any. Inspector(s) will hear and determine all challenges and questions in any way arising out of or in connection with the right to vote. Ballots will be returned to the Association's managing office, unless another location is designated by the Inspectors. Inspector(s) will determine when the polls shall close. Inspector(s) will determine and announce the tabulated results of the election.

The Inspector(s) may appoint and oversee additional persons to verify signatures and to count and tabulate votes as the Inspector(s) deem appropriate, provided that the persons are independent third parties.

Inspector(s) may also perform any acts as may be proper to conduct the election with fairness to all members in accordance with the Inspector of Election rules and all applicable rules of the Association regarding the conduct of the election that are not in conflict with the Inspector of Election rules. Inspector(s) must perform all duties impartially, in good faith, to the best of his or her ability, and as expeditiously as is practical, and in a manner that protects the interest of all members of the Association.

Tabulation of Votes

Inspector(s) count and tabulate all votes. All votes shall be counted and tabulated by the Inspector(s) at a duly noticed board or membership meeting. Any candidate or other member of the Association may witness the counting and tabulation of the votes. Members who are not Inspectors or being overseen by an Inspector must remain at least five feet away from the counting area. Members who are not Inspectors may not participate in the counting or tabulation process or any discussions that may arise among the Inspectors or their designated assistants.

Every Inspector(s) must provide an inspection report for the Association's corporate records. After the final tabulation of the votes, custody of all election materials will be transferred to the custody of the Association, unless first retained by the Inspector in a secure place for no less than one (1) year after the date of the election. Once retained by the Association, the election materials shall be stored for a period not less than the current fiscal year, plus two additional fiscal years.

Recording and Announcing Election Results

Inspector(s) must report the results of the election promptly to the Board of Directors and the results will be recorded in the next regular session board meeting minutes. In addition to recording the election results in the next regular session board meeting minutes, the Association shall keep Annual Meeting Minutes that reflect the results of the election.

The Board of Directors will publicize the results of the election in a communication directed to all members within fifteen (15) days of a successful (quorum achieved) election.

Retention and Inspection of Records

The ballots, signed voter envelopes, voter list, proxies, and candidate registration list shall at all times be in the custody of the Inspector(s) or at a location designated by the Inspector(s) until after the tabulation of the vote, and until the time allowed by *Civil Code* section 5145 for challenging the election has expired, at which time custody shall be transferred to the Association.

Returned ballots, signed voter envelopes, the voter list of names, parcel numbers, and voters to whom ballots were to be sent, proxies, and the candidate registration list are subject to inspection. Signed voter envelopes may be inspected but may not be copied. If there is a recount or other challenge to the election process, the Inspector(s) shall, upon written request, make the ballots available for inspection and review by an Association member or the member's authorized representative. Any recount shall be conducted in a manner that preserves the confidentiality of the vote.