

**MONTEVIDEO IMPROVEMENT ASSOCIATION NO. 1
ELECTION RULES**

Whereas, California Civil Code Section 5105(a), with effective date of January 1, 2014, requires the adoption of rules regarding election procedures; appointment of election inspectors; voting by secret ballot; proxy and ballot instructions; publication of election results; and retention of ballots.

Now, therefore, be it resolved that Montevideo Improvement Association No. 1 does hereby adopt the following rules:

A. Effective Date

These rules shall become effective upon adoption at the noticed board meeting.

B. Vote by Secret Ballot for Specified Matters

1. The following matters require a vote by secret ballot in accordance with the procedures set forth herein:

- Assessments, where a vote is required by law;
- Election and removal of members of the Board of Directors;
- Amendments to the governing documents; or
- The grant of exclusive use of common area property pursuant to California Civil Code Section 4600.

2. These rules do not limit the authority of the Board of Directors to impose assessments sufficient to perform its obligations in accordance with the provisions of the governing documents and California Civil Code Sections 5600(a) and 5605(a)-(c).

3. These rules do not limit the Board of Directors from making such recommendations to the membership in regard to all matters, including those matters covered under this Section B, with the sole exception of advocating the election or defeat of any candidate that is on the election ballot, to the extent deemed necessary to comply with duties of the Association as imposed by the governing documents and the law.

C. Fairness in Elections

1. The Association shall ensure that 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, equal access shall be provided to all candidates and members advocating a point of view, including those not endorsed by the Board, for purposes that are reasonably related to the election. The Association shall 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. The Board may adopt a reasonable deadline for the submission of all opposition communications reasonably related to the election to facilitate the timely and efficient dissemination of election materials to the members in accordance with this Paragraph.

2. The Association shall specify the qualifications for candidates for the Board of Directors, and any other elected position, and procedures for the nomination of candidates. Non-members and members are qualified to serve as directors. At least sixty (60) days prior to the date of any election of Directors, the Board shall appoint a Nominating Committee to select qualified candidates for election to those positions on the Board of Directors held by Directors whose terms are then expiring. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association who may or may not be Board members. The Nominating Committee shall make its report to the Board at least thirty (30) days before the date of the election. The Nominating 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 on the Board to be filled. Persons in good standing may be nominated as candidates for election to the Board.

A person can become a candidate for election by self-nomination by giving timely notice to the Board or as a candidate nominated from the floor if the secret ballot election concludes at a meeting of the members.

3. California Civil Code Section 5105(a) requires that the Association shall 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.

a). The qualifications for voting are as follows: (1) all members are entitled to vote, except those whose voting rights have been temporarily suspended in accordance with Article II, Section 2 of the By-Laws; (2) the voting power of each membership is equal; and (3) each member shall be entitled to one vote for each lot owned by the member, except that cumulative voting for the election of directors is authorized as provided in Article II, Section 2 of the By-Laws. The effect of proxies is as stated in Article II, Section 3 of the By-Laws.

b). All ballots and voting materials shall be provided to members not less than 30 days prior to the time of the meeting of members or Board of Directors at which the votes will be tabulated. Written ballots and proxies must be returned to and received by the inspector(s) no later than the commencement of the meeting at which the votes will be tabulated.

4. Each ballot received by the inspector(s) of election shall be treated as a member present at a meeting for purposes of establishing a quorum. Ballots may provide a space for abstentions from voting. Ballots including one or more abstentions shall

nevertheless be treated as a member present at a meeting for purposes of establishing a quorum.

D. Use of Association Funds for Campaign Purposes

1. Association funds shall not be used for campaign purposes in connection with any Association Board election. Association funds 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.

2. For the purposes of this Section, the term "campaign purposes" includes, but is not limited to, the following:

a). Expressly advocating the election or defeat of any candidate that is on the Association election ballot.

b). 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 30 days of an election, provided that this is not a campaign purpose if the communication is one for which subdivision (a) of Section 5105 requires that equal access be provided to another candidate or advocate.

3. The inspector of elections may set a limit on the length of the statements of candidates for the Board of Directors.

E. Inspector of Election

1. The Association's Board of Directors shall, for each matter to be voted on falling under Section B, select one or three independent persons to act as inspector(s) of election. The inspector(s) of election selected by the Board of Directors may include, but shall not be limited to:

a). The Association manager, as allowed by California Civil Code Section 5110(b);

b). A volunteer poll worker with the County Registrar of Voters;

c). A licensee of the California Board of Accountancy;

d). A notary public;

e). A member of the Association, who may not be a member of the Board of Directors or a candidate for the Board of Directors.

2. The inspector(s) may not be a person who is currently employed or under contract to the Association for any compensable services unless such person, like the Association manager, is expressly authorized by these Rules adopted pursuant to California Civil Code Section 5105(a).

3. The inspector(s) of election shall do all of the following:

a). Determine the number of memberships entitled to vote and the voting power of each in accordance with the governing documents, including these Election Rules.

b). Determine the authenticity, validity, and effect of proxies, if any.

c). Receive ballots directly from members by hand delivery or by mail.

d). Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.

e). Count and tabulate all votes.

f). Determine when the polls shall close, including a reasonable extension of the ballot return date as set forth in the Board approved Ballot.

g). Determine the tabulated results of the election.

h). Perform any acts as may be proper to conduct the election with fairness to all members in accordance with Civil Code Section 5105(a) and following, the Corporations Code and the governing documents of the Association regarding the conduct of the election that are not in conflict with Civil Code Section 5105(a) and following. Without limitation, the inspector or inspectors may appoint and oversee additional persons to verify signatures and to count and tabulate votes as the inspector or inspectors deem appropriate, provided that the persons are independent third parties.

4. The inspector(s) 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. If there are three inspectors of election, the decision or act of a majority shall be effective in all respects as the decision or act of all. Any report made by the inspector(s) of election is prima facie evidence of the facts stated in the report.

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

F. Proxies

In secret ballot elections, proxy holders must be members. Any instruction given in a proxy issued for an election that directs the manner in which the proxy holder is to cast the vote shall be set forth on a separate page of the proxy that can be detached and given to the proxy holder to retain. The proxy holder shall cast the member's vote by secret ballot.

G. Secret Voting Procedure

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 30 days prior to the deadline for voting. In order to preserve confidentiality, a voter may not be identified by name, address, or lot number on the ballot. The Association shall use as a model those procedures used by California counties for ensuring confidentiality of voter absentee ballots, including all of the following:

- a). The ballot itself is not signed by the voter, but 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 and indicate the address or separate interest identifier that entitles him or her to vote.
- b). The second envelope is addressed to the inspector of election, who will be tallying the votes. The envelope may be mailed or delivered by hand to a location specified by the inspector of election. The member may request a receipt for delivery.
- c). Only official election materials may be used in the election process. These include the Official Ballot, the "Ballot Enclosed" envelope, and the pre-addressed return envelope. Therefore, any unofficial election material will be rejected by the election inspector(s).

H. Election by Acclamation

The members shall be provided a reasonable opportunity to nominate themselves or another member as a candidate for election to the Board of Directors, as provided in these Election Rules. If, following that reasonable period, there are no more candidates for election to the Board than there are vacancies to be filled on the Board, the inspector(s) shall provide a report of such fact to the Board of Directors who may deem the nominees to the vacancies on the Board to be elected and who shall then be deemed elected by acclamation.

I. Determining the Voting Outcome

1. All ballots must be received by the inspector(s) no later than the commencement of the meeting at which the votes will be tabulated.
2. All votes shall be counted and tabulated by the inspector of election in public at a properly noticed open meeting of the Board of Directors or the members. Any candidate or other member of the Association may witness the counting and tabulation of the votes. No person, including a member of the Association, a member of the Board of Directors, 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. However, the inspector of election, or his or her designee, may verify the member's information and signature on the outer envelope prior to the meeting at which the ballots are tabulated.
3. The tabulated results of the election shall be promptly reported to the Board of Directors of the Association 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.
4. Within 15 days of the election, the Board shall publicize the results of the election in a communication directed to all members.

J. Custody of Election Materials

1. The sealed ballots at all times shall be in the custody of the inspector(s) of election or at a location designated by the inspector(s) until after the tabulation of the vote, until one year after the election, at which time custody shall be transferred to the Association. In the event of 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 Association members or their authorized representatives. Any recount shall be conducted in a manner that shall preserve the confidentiality of the vote.
2. After transfer of the election ballots to the Association, election ballots shall be stored by the Association in a secure place for no less than one year after the date of the election.

K. Conflict

Pursuant to Civil Code Section 4205, to the extent of any inconsistency between the governing documents and the law, the law controls; to the extent of any inconsistency between the Articles of Incorporation and the Declaration, the Declaration controls; to the extent of any inconsistency between the Bylaws and the Articles of Incorporation or Declaration, the Articles of Incorporation or Declaration control; to the extent of any inconsistency between the operating rules and the Bylaws, Articles of Incorporation, or Declaration, the Bylaws, Articles of Incorporation, or Declaration control. These Election Rules are based on California Civil Code Section 5105, and control in the event of any inconsistency with the governing documents.

SAMPLE

**Montevideo Improvement Association No. 1
Proxy for Annual Membership Meeting - 2014**

The undersigned member (hereinafter "Member") of Montevideo Improvement Association No. 1 (the "Association") hereby revokes all previous proxies and acknowledges receipt of the secret ballot and related materials concerning a Members' meeting to be held on December 12, 2014, at 7:00 p.m. at _____, California, and appoints the person named below or, if no appointment, the Secretary who will vote as directed by a majority of the Board, as proxy (hereinafter "Proxyholder") of the Member. By this proxy, the Proxyholder shall have the power to vote the secret ballot and to represent the Member at said meeting and any adjournments thereof in the manner set out below. This proxy shall be valid for 11 months from the date of execution unless earlier revoked. Any act the Proxyholder shall take pursuant to this proxy shall have the same effect as if the Member were present and so acting. The Proxyholder is hereby instructed to vote or use this proxy as follows:

_____ . _____

Instructions - Select Only One of the Following Options:

Option 1 - If you wish to use the proxy as an absentee ballot (directed proxy), complete the attached "Option 1 Directions" Tear-Off Sheet. By completing this section it is understood that you are assigning your proxy to your chosen representative, or if left blank, to the Association Secretary, and he/she is required to vote your proxy exactly as you have indicated.

Or

Option 2 - If you wish to assign your voting rights to another person without voting instructions, select Option 2.

After you select and complete one option, *be sure to sign and date the proxy*. It is understood that proxies signed, but otherwise unmarked, are assigned to the Association Secretary, to be voted as decided by a majority of a quorum of the Board of Directors.

_____ . _____

Proxy Selection

Option 1: I wish to assign my proxy to _____. I instruct my proxy to vote on each of the following matters in the manner indicated on the attached Tear-Off Sheet.

Or

Option 2: I wish to assign my proxy to _____ to vote as he or she sees fit. **Note:** The Proxyholder must be a member of the Association.

I authorize the person named above to act as my Proxyholder at the meeting specified and any adjournment of that meeting.

Signature _____ Date _____

Printed Name _____

Property Address: _____ # _____

Mailing Address: _____

THIS PROXY WILL BE VOTED AS YOU HAVE INSTRUCTED ABOVE. IF NO VOTING INSTRUCTIONS HAVE BEEN GIVEN AS TO ANY MATTER SET OUT ABOVE, THIS PROXY WILL BE VOTED AS TO THAT MATTER AS THE PROXYHOLDER DEEMS PROPER.

Option 1 Voting Directions

TEAR-OFF SHEET
(To Be Removed and Retained by Proxyholder
and Not Given to Inspector(s))

A. Election of Directors

Candidates	Mark with an "X"
1. _____	1. [] [] [] [] []
2. _____	2. [] [] [] [] []
3. _____	3. [] [] [] [] []
4. _____	4. [] [] [] [] []
5. _____	5. [] [] [] [] []
6. _____	6. [] [] [] [] []
7. _____	7. [] [] [] [] []
8. _____	8. [] [] [] [] []
9. Abstain	9. []

Note: You may allocate five (5) votes among the candidates as you wish. For example, you may place all five (5) votes on one candidate or place three (3) votes for one candidate and two (2) for another. If you vote in excess of five (5), your ballot will not be counted.

B. Assessment Increase by 25%

For [] Against [] Abstain []

C. I.R.S. 70-604 "Roll-Over" Resolution

For [] Against [] Abstain []

D. If I abstain from voting on all issues, this proxy will be counted toward the quorum only.

Mark with an "X" _____

If you do not complete this Tear-Off Sheet, you are giving your proxy the power to use his or her judgment on the voting issues.

SAMPLE

**Official Ballot
Montevideo Improvement Association No. 1**

A. RESOLVED, that the members of Montevideo Improvement Association No. 1 elect five (5) members to serve on the Board of Directors.

Candidates	Mark with an "X"
1. _____	1. [] [] [] [] []
2. _____	2. [] [] [] [] []
3. _____	3. [] [] [] [] []
4. _____	4. [] [] [] [] []
5. _____	5. [] [] [] [] []
6. _____	6. [] [] [] [] []
7. _____	7. [] [] [] [] []
8. _____	8. [] [] [] [] []
9. Abstain	9. []

Note: You may allocate five (5) votes among the candidates as you wish. For example, you may place all five (5) votes on one candidate or place three (3) votes for one candidate and two (2) for another. If you vote in excess of five (5), your ballot will not be counted.

B. RESOLVED, that the members of Montevideo Improvement Association No. 1 vote to increase the regular assessment by twenty-five percent (25%) over the budgeted gross expenses of the preceding fiscal year.

Mark below with an "X"

For Proposal "B" _____

Against Proposal "B" _____

Abstain _____

C. RESOLVED, that the members of Montevideo Improvement Association No. 1 approve the I.R.S. 70-604 "Roll-Over" Resolution.

Mark below with an "X"

For Proposal "C" _____
Against Proposal "C" _____
Abstain _____

D. I abstain from voting. This ballot will be counted toward the quorum only.

Mark with an "X" _____

Date: _____

Note: This ballot must be returned by December 12, 2014 at 5:00 p.m. in order to be counted. Return the Ballot, following the enclosed instructions, to _____. The Board may extend the return date and the date for counting of the ballots as set forth in the voting instructions.

The persons entitled to vote for this amendment are those who are record owners of a Lot in the Montevideo subdivision as of the date of mailing of this ballot.

The quorum required to approve Proposals "A" and "C" on this ballot is fifty percent (50%) of the members, i.e. two hundred (200) votes, under Article II, Section 10 of the By-Laws. The quorum required to approve Proposal AB@ on this ballot is more than fifty percent (>50%) of the owners under Civil Code Sections 4070 and 5605(c).

SAMPLE

Official Voting Instructions

Montevideo Improvement Association No. 1, a California Non-Profit Mutual Benefit Corporation

1. Please complete Part “A” of the ballot by inserting a maximum of five (5) “X’s” in the spaces provided. You may check no more than five (5) boxes. Complete Parts “B” and “C” by placing an *AX* on the *For* or *Against* lines to cast your vote for or against the assessment increase and roll-over resolution. The ballot is enclosed with this instruction sheet and is marked *Official Ballot*.
2. After you have finished voting, place your completed Ballot into the envelope marked *Official Ballot Envelope* and seal the envelope.
3. Place the sealed *Official Ballot Envelope* (containing your completed Ballot) into the pre-addressed return envelope. Seal this envelope and print your name, address and unit number in the upper left-hand corner, then sign in the space provided.
4. Send this envelope by U.S. mail or overnight courier service, or hand deliver it to the inspector(s) at _____. Ballots must be received no later than the commencement of the meeting at which the votes will be tabulated. The Board may extend the voting time by giving written notice to the members, prior to the original cut-off date, of the new ballot return date, and the new date, time and place of the meeting where the ballots will be counted. Ballots received after this time will not be counted.
5. All votes will be counted and tabulated at a Board or membership meeting scheduled on December 12, 2014, or as extended by the Board.

Frequently Asked Questions

Q: How do I vote my Ballot?

A: Please refer to the instructions on the Ballot and on the enclosed Instructions.

Q: Do I sign my Ballot?

A: No!

Q: Do I sign the pre-addressed return envelope?

A: Yes. There is a space in the upper left-hand corner where you must sign to indicate your name, address, and unit number. If you do not follow these instructions properly, your vote will not be counted.

Q: When must I return my voted Ballot?

A: Please see the enclosed Instructions for the date and time by which the Ballots must be received by the inspector(s). You may send your Ballot through the U.S. Mail or by overnight courier service, or you may hand deliver it.

Q: If I lose my Ballot, can I get another one?

A: Yes. You must contact _____ at _____. You will be required to sign a statement under penalty of perjury that your original Ballot was either lost, destroyed or never received. The Association will maintain a record of all such requests, and if any homeowner is determined to have voted more than once, even if by mistake, neither Ballot will be counted.

Q: How are Ballots counted?

A: Ballots will be counted and tabulated by _____ in public at the Board/annual meeting, beginning at 7:00 p.m. on December 12, 2014. This meeting date may be extended by written notice from the Board. Any homeowner may witness the counting and tabulation of the votes.

If you have other questions about the voting process, please contact _____.

SB 61 Timeline – Discussion Draft

Note: This timeline is a sample only. Actual calendars for election activities need to be coordinated with the governing documents of the association and the meeting date. Also, some of the sample deadlines can be revised for convenience, but others are mandated by SB 61. This table assumes an annual meeting of December 12, 2014.

Date	Event	Comment
10/03/14 (hypothetically)	Appoint inspectors	Early appointment is advisable as inspectors have general authority over the conduct of the election
10/03/14 (hypothetically)	Appoint nominations committee	Follow bylaw provisions
11/05/14 (hypothetically)	Nomination committee report and recommendations	
11/11/14	Mail secret ballots to owners with voting instructions and proxies; Identify closing date and time of 12/12/14.	Minimum 30 days before the close of the voting
12/12/14	Membership meeting starts; nominations from the floor	
12/12/14	Inspectors count secret ballots at meeting and verbally report results	
12/12/14	Inspectors report to Board of Directors; Board is to record results in minutes of next meeting and make ballots available for inspection to the members; Ballots securely stored by inspector(s) for nine (9) months after the election	Required “promptly” after meeting
12/29/14	Results of election publicized to all members	This is last possible date, 15 days after the election
June, 2015	Ballots and election materials delivered by inspector(s) to Board	

Montevideo Improvement Association No. 1
1585 Monteval Lane
San Jose, California 95120

Dear Members,

By law, the Association is required to adopt election rules that cover certain votes of the members. These include elections concerning assessment increases over the Board=s statutory limit, amendment of the governing documents, and elections of directors. The Associations legal counsel prepared the enclosed draft election rules which had been tentatively adopted by the Board.

The agenda for the Board meeting on December 12, 2014 includes the formal adoption of the election rules. Under the law, you have the period to and including this Board meeting to provide your comments and questions concerning the draft election rules. These will be considered by the Board of Directors prior to voting on the enclosed drafts. The meeting will be held at _____ beginning at 7:00 p.m.

The purpose of the election rules is to comply with California law, and to guide the conduct of the specified elections. The effect of adoption of the rules will be to bring the Association into compliance with the requirements of the law, and to establish guidelines for conducting the elections covered by the rules.

Within fifteen (15) days after the meeting, the final rules, as adopted, will be sent to you.

Thank you in advance.

Board of Directors
Montevideo Improvement Association No. 1

Note: Owners must have at least 30 days to comment on the draft rules prior to the Board meeting.