

SUGARLOAF MOUNTAIN OWNERS' ASSOCIATION, INC
VOTING PROCEDURES

INTRODUCTION

The Board of Directors of Sugarloaf Mountain Owners' Association, Inc. ("SMOA" or "Association") is vested with the authority to "adopt such rules and regulations for the conduct of their meetings and the management of the Association as they may deem proper".¹ Management of the Association includes, among other things, the election of Directors and the presentation of questions submitted to the membership for a vote at a Special Meeting.

In an effort to provide clarity and transparency to the membership and to settle potential questions as to the proper procedures for deadlines, ballot access, ballot format, ballot secrecy, ballot submission, ballot tabulation and other election-related questions, the Board of Directors adopts the following rules:

NOTICE OF ANNUAL GENERAL MEETING
AND DEADLINES

"Written notice stating the place, date and time of the [annual general] meeting and the general nature of the business to be considered shall be sent to each Member entitled to vote at the Member's address as it appears on the records of the Association, not less than ten (10) days nor more than fifty (50) days before the meeting".²

So that the Board may timely publish the names of candidates "for the election of directors and any such other business as may be stated in the notice of the [annual general] meeting"³ the Board will establish an annual deadline by which candidates for directors must submit a "candidate statement" expressing his/her interest in serving on the Board.

The "Notice of Annual Deadline" will be published in the Association's Blog section under the "More" tab on the Association website, (sugarloafmtoa.org). For Members who have previously requested paper copies of Association documents via USPS, the "Notice of Annual Deadline" will be sent by mail to the Member's address.

For Members who have not previously requested paper copies of Association documents via USPS, the Board of Directors must receive a written request for documents by the postmark date no later than January 31st, so that the Board may timely provide all required annual notices to all Members. All written requests for documents must be sent to: SMOA, PO BOX 707, Datil, NM 87821.

Notice of the annual deadline must be posted and/or postmarked by the Board of Directors not less than thirty (30) days prior to the annual deadline.

¹ Sugarloaf Mountain Owners' Ass'n, Inc. (1998). Declaration of Covenants, Conditions and Restrictions for Sugarloaf Mountain Subdivision, § 2.4. See also Sugarloaf Mountain Owners' Ass'n, Inc. (2024). Bylaws of Sugarloaf Mountain Owners' Ass'n, Inc., § 4.8.

² Bylaws § 3.4.

³ Bylaws § 3.2.

BALLOT ACCESS

“Directors shall be elected at the annual meeting of Members and each Director shall be elected to serve until [the] Board member’s successor shall be elected and is qualified to serve on the Board”.⁴

Candidates for Directors are required to submit a candidate statement no later than the annual deadline published by the Board of Directors.

Only Members in good standing are eligible to submit candidate statements. Members who are not in good standing may cure ineligibility by submitting full payment of any past due assessments or proof that any noticed violation or real estate contract default has been cured,⁵ along with his/her candidate statement. Only one Member per lot may submit a candidate statement.

Candidate statements should be concise and no more than 200 words in length. Candidate statements should highlight certain skills/qualifications that the candidate possesses, that are desirable in a director and/or any policies/practices that the candidate wishes to advance through a position on the Board.

Candidate statements shall be submitted in writing to the Secretary of the Association, by mail to the Association mailing address (ATTN: SECRETARY) **or** by email to the Association email address (board@sugarloafmtoa.org) in the body of the email or as a pdf attachment (subject line ATTN: SECRETARY). All candidate statements should be typewritten or legibly handwritten.

The Secretary has the right to reject any candidate statement deemed to be inappropriate, in his/her sole discretion, and return the submission to the candidate for revision. Revised candidate statements are due within three (3) days of the date of the returned submission.

BALLOT FORMAT AND SECRECY

The names of the candidates who have submitted a timely candidate statement shall appear on the annual ballot in alphabetical order. There is no limit to the number of candidates that may be placed on the annual ballot. If less than five (5) candidates submit candidate statements, the ballot will include only the names of the candidates who have submitted timely candidate statements. In the event that less than five (5) candidates are presented on the annual ballot, the newly elected Board may choose to operate with less than five (5) Directors⁶ **or** the newly elected Board, through less than a quorum, may by a majority vote, choose to appoint a qualified Member to hold office for the remainder of the term.⁷

On the annual ballot, each name will be followed by a blank line for the voter to indicate the number of votes submitted for the named candidate. Each Member is entitled to one vote per lot owned with respect to each candidate for whom a Member is entitled to vote.⁸ The vote of co-owners of a lot shall be exercised as a majority of the co-owners. Votes attributed to any lot may not be aggregated for any one candidate or split or fractionalized.

Ballots may also include any questions presented to the membership for a vote in a Special Election. Each Member is entitled to one vote per lot owned with respect to each issue for which a Member is entitled to vote. The vote of co-owners of a lot shall be exercised as a majority of the co-owners.

⁴ Bylaws § 4.1.

⁵ See *generally*, Declaration § 2.3. See *also*, Bylaws § 3.1.

⁶ Bylaws § 4.1.

⁷ Bylaws § 4.7.

⁸ Declaration § 2.3. See *also*, Bylaws § 3.1.

To ensure voter privacy, ballots shall be marked with a unique confidential voter/owner ID number, known only to current Directors. The ballot shall not include any other information, other than the unique ID number, that would otherwise disclose the identity of the member submitting the ballot.

BALLOT SUBMISSION

The New Mexico statute dealing with proxy and absentee voting for homeowner associations, NMSA 1978 § 47-16-9 (2013), states that each Member may vote in person, by absentee ballot or by proxy.⁹ The proxy vote shall be valid only for the meeting at which it is cast.¹⁰ All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon transfer by the Member of the lot for which the proxy was given.¹¹ Votes cast by proxy and by absentee ballot are valid for the purpose of establishing a quorum.¹² All ballots will be received and compiled by the current Secretary of the Association.

BALLOT TABULATION

NMSA 1978 § 47-16-9 (2013) also states that “[b]allots, if used, shall be counted by a neutral third party or by a committee of volunteers. The volunteers shall be selected or appointed at an open meeting, in a fair manner, by the chair of the board or another person presiding during that portion of the meeting. The volunteers shall not be board members and, in the case of a contested election for a board position, shall not be candidates”.¹³

The volunteer committee will be selected at random, by the Secretary, as the first order of business at the Annual General Meeting. The Secretary will explain the procedures to the volunteer committee prior to any tabulation or tally of votes. The volunteer committee will first determine eligibility of each ballot submitted by the Secretary for tabulation. Eligibility will be determined by cross-referencing the unique voter ID number with a list of eligible (or ineligible) voters provided by the Secretary. Any ballots that are determined by the volunteer committee to be ineligible shall be submitted to the Secretary for confirmation of ineligibility prior to beginning the vote tabulation. Should an otherwise ineligible Member be present at the Annual General Meeting, the Secretary shall provide the Member an opportunity to cure any disqualifying factor. The Secretary shall be the final arbiter of eligibility.

Ballots that are disqualified shall be set aside and marked with the reason for disqualification. The affected Member shall thereafter be notified, in writing, by the Secretary that his/her ballot was disqualified and the reason for the disqualification.

After ballot eligibility has been determined, the volunteer committee, in coordination with the Secretary, will determine if a quorum exists.¹⁴ The Secretary will provide the volunteer committee with a number of eligible Members entitled to vote (calculated as the total number of Members minus the number of ineligible Members). This sum is multiplied by 0.30 to determine the minimum of ballots necessary to establish a quorum. The volunteer committee will count the eligible ballots received and report to the Secretary the number of eligible ballots and if a quorum is met. If a quorum is not reached, another meeting of the Members may be called in accordance with the Bylaws.

⁹ NMSA 1978 § 47-16-9(A) (2013).

¹⁰ NMSA 1978 § 47-16-9(B)(3) (2013).

¹¹ Bylaws § 3.6.

¹² NMSA 1978 §47-16-9(B)(5) (2013).

¹³ NMSA 1978 §47-16-9(F) (2013).

¹⁴ Bylaws § 3.5.

The Secretary shall provide the volunteer committee with a form to use in the ballot tabulation process for the election of Directors and for questions presented for a vote at a Special Election, if any. The volunteer committee shall use the form provided by the Secretary to tally the votes for each candidate and submit the vote totals to the Secretary to be reported prior to the adjournment of the Annual General Meeting.

The five (5) candidates with the most votes will be elected as Directors of the Association. In the event of a tie, the remaining Director's seat(s) will either be decided exclusively between the tied candidates by voluntary withdrawal of one or more candidates **or** in lieu of withdrawal, by a drawing of straws or coin toss.

The volunteer committee shall use the form provided by the Secretary to tally the votes for each question presented for a vote at a Special Election and submit the vote totals to the Secretary to be announced to the membership prior to the adjournment of the Special Meeting.

RESULTS AND RECORDS RETENTION

Election results shall be published online on the Association's website no later than thirty (30) days following the Annual General Meeting and mailed to owners who have made a written request to receive Association documents via USPS in the next Association mailing.

All ballots and ballot tabulation forms shall be retained by the Secretary as corporate records.