



Pine Mountain Estates  
Property Owners Assoc., Inc.

# Voting Guidelines

Contains guidelines to our voting  
Process as described within  
Our Governing Documents

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2885 Pine Mountain Drive,  
Connelly Springs, NC 28612  
Phone 828-437-4894  
Fax 828-438-1583

# Pine Mountain Voting Guidelines

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# Pine Mountain Voting Guidelines

## **Voting Entitlement Generally. 55A-7-21.**

- a. Unless the articles of incorporation or bylaws provide otherwise, each member is entitled to one vote on each matter voted on by the members.
- b. Unless the articles of incorporation or bylaws provide otherwise, if a membership stands of record in the names of two or more person, their acts with respect to voting shall have the following effect:
  1. If only one votes, such act binds all; and
  2. If more than one votes, the vote shall be divided on a pro rata basis.
- c. An amendment to the articles of incorporation or bylaws on which members are entitled to vote, the purpose of which is to increase or decrease the number of votes any member is entitled to cast on any member action, shall be approved by the members entitled to vote on that action by a vote that would be sufficient to take the action before the amendment.

## **Voting Requirements. 55a-7-23.**

- a. Unless this Chapter, the articles of incorporation, or the bylaws require a greater vote or voting by class, if a quorum is present, the affirmative vote of a majority of the votes cast is the act of the members.
- b. An amendment to the articles of incorporation or bylaws on which members are entitled to vote, the purpose of which is to increase or decrease the vote required for any member action, shall be approved by the members entitled to vote on that action by a vote that would be sufficient to take the action before the amendment.

## **Voting Rights**

**Section 1:** Only Members in good standing, as defined in **Pine Mountain's By-Laws, Article III**, will be allowed to vote. When more than one person holds such interest or interests in any Unit of PML Property, the vote for such Unit of PML Property shall be exercised as they shall determine; provided, however, that in no event shall more than one vote be cast with respect to any such Unit of PML Property.

## **Section 2:** Action by written ballot. **(55A-7-08)**

- a. Unless prohibited or limited by the articles of incorporation or bylaws and without regard to the requirements of G.S. 55A-7-04, any action that may be taken at any annual, regular, or special meeting of members may be taken without a meeting if the corporation delivers a written ballot to every member entitled to vote on the matter. Any requirement that any vote of the members be made by written ballot may be satisfied by a ballot submitted by electronic transmission, including electronic mail, provided that such electronic transmission shall either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the member or the member's proxy.
- b. A written ballot shall:
  1. Set forth each proposed action; and
  2. Provide an opportunity to vote for or against each proposed action.

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- c. Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the same total number of votes were cast.
- d. All solicitations for votes by written ballot shall indicate the time by which a ballot shall be received by the corporation in order to be counted.
- e. Except as otherwise provided in the articles of incorporation or bylaws, a written ballot shall not be revoked.

### **Action by Written Ballot. 55A-7-08.**

- a. Unless prohibited or limited by the articles of incorporation or bylaws and without regard to the requirements of 55A-7-04 (Action by Written Consent), any action that may be taken at any annual, regular or special meeting of members may be taken without a meeting if the corporation delivers a written ballot to every member entitled to vote on the matter. Any requirement that any vote of the members be made by written ballot may be satisfied by a ballot submitted by electronic transmission, including electronic mail, provided that such electronic transmission shall either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the member or the member's proxy.
- b. A written ballot shall:
  - 1. Set forth each proposed action; and
  - 2. Provide an opportunity to vote for or against each proposed action.
- c. Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the same total number of votes were cast.
- d. All solicitations for votes by written ballot shall indicate the time by which a ballot shall be received by the corporation in order to be counted.
- e. Except as otherwise provided in the articles of incorporation or bylaws, a written ballot shall not be revoked.

### **Board of Directions: Election Process (PM By-Laws Article VIII)**

The nomination and election of the Board of Directors shall be as follows:

**Section 1:** Election of the Board of Directors shall be by electronic or written ballot as hereinafter provided, and pursuant to both **Article III and Article IV**.

**Section 2:** Nominations for election to the Board of Directors shall be made by a Nominating Committee which shall be one of the Standing Committees of the Association. The President shall have authority to appoint and replace members of this committee as it is necessary.

**Section 3:** The Nominating Committee shall consist of three (3) Members in good standing and one (1) Member of the Nominating Committee shall be designated by the Board of Directors as Chairman. The

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Nominating Committee shall be appointed as soon as the Board of Directors shall deem appropriate and shall serve until a successor Nominating committee shall be appointed by the Board of Directors.

**Section 4:** The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Nominations shall be placed on an electronic or written ballot as provided in **Section 5, Article VIII**, and shall be made in advance of the time fixed in **Section 5, Article VIII**, for the mailing of such ballots to voting members. Accompanying the ballot shall be a description of each candidate containing a short resume and the benefits they can provide as a board director.

**Section 5:** All elections to the Board of Directors shall be made on written ballot which shall:

- a. Describe the vacancies to be filled
- b. Set forth the names of those nominated by the Nominating Committee for such vacancies.

A box to the left of the name of the candidate is to be marked with an "X" to identify a vote "for." Such ballot shall be prepared and sent out by the Secretary of the Association to the eligible voting Members at least thirty (30) days in advance of the date designated by the Board of Directors as the date for the election. The date of the election shall be prior to the date of the Annual Meeting and the term of office of a Director shall be for three (3) years. The term shall expire upon the date of the Annual Meeting. No Director will serve more than two (2) consecutive terms.

**Section 6:** Director's Resignation. The date a Director resigns from the Board can become effective immediately upon communication unless the resignation sets forth a different effective date.

Remaining Board Directors will select a successor through a qualifying procedure:

- a. Must qualify as a Member in Good Standing.
- b. Provide a short resume and the benefits they can provide as a Board Director.
- c. Accept the position until the next election.

**Section 7:** Each eligible voting member shall receive one (1) ballot to be sent to the voting lot owner by the Secretary of the Association, with a return envelope addressed to the President. There shall be no requirement that the ballot be signed by the voting member. It shall be the responsibility of the Secretary to code or otherwise identify the ballots to prevent duplication or reproduction of the ballots.

**Section 8:** Upon receipt of each ballot returned, the Secretary of the Association shall place same in a safe place, and upon the date designated by the Board of Directors as the date of the election, shall open the ballots and count same in the presence of any Member of Pine Mountain and two non-incumbent Directors appointed by the Board of Directors who, with the President, shall constitute the Election Committee. In the event the current President is an Incumbent then the Board shall name a Chairman, other than the President, for the Elections Committee. The results of the Election shall be publicly posted within twenty-four (24) hours at the Pine Mountain POA Office and shall be placed in the records at the next following Pine Mountain POA Board of Directors meeting. In the event two or more persons have been nominated for a vacancy, the person receiving the greater number of affirmative votes shall be declared elected. In the event only one person shall have been nominated for a vacancy, such person shall be declared elected upon the counting of the ballots, unless a person receives a greater number of "write-in" votes. To qualify as a write-in vote, the person must be a Member in Good Standing. A "write-in" vote or votes shall be deemed a proper nomination and an affirmative vote for the person designated on the ballot and shall be counted in any election of Directors. Each person

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'elected' must sign the "Agreement to Serve on Pine Mountain POA, Inc. Board of Directors" and the "Code of Ethics for Board Members" prior to being placed on the board.

### **Voting for Directors; Cumulative Voting. 55A-7-25**

- a. Unless otherwise provided in the articles of incorporation, the bylaws, or an agreement valid under 55A-7-30 (*Voting agreements*) directors are elected by a plurality of the votes cast by the members entitled to vote in the election at a meeting at which a quorum is present. If the articles of incorporation, bylaws, or an agreement valid under 55A-7-30 (*Voting Agreements*) provides for cumulative voting by members, members may so vote, by multiplying the number of votes the members are entitled to cast by the number of directors for whom they are entitled to vote, and casting the product for a single candidate or distributing the product among two or more candidates.
- b. Members otherwise entitled to vote cumulatively shall not vote cumulatively at a particular meeting unless:
  1. The meeting notice or statement accompanying the notice states that cumulative voting will take place; or
  2. A member or proxy who has the right to cumulate his votes announces in open meeting, before voting for directors starts, his intention to vote cumulatively; and if such announcement is made, the chair shall declare that all persons entitled to vote have the right to vote cumulatively , shall announce the number of votes entitled to be cast, and shall grant a recess of not less than one hour nor more than 4 hours, as the chair shall determine, or of such other period of time as is unanimously then agreed upon.
- c. A director elected by cumulative voting may be removed by the members without cause if the requirements of 55A-8-08 (*Removal of Directors Elected by Members or Directors*) are met unless the votes cast against removal would be sufficient to elect such director if voted cumulatively at an election at which the same total number of votes were cast and the entire number of directors elected at the time of the director's most recent election were then being elected.

### **Corporation's Acceptance of Votes. 55A-7-27.**

- a. If the name signed on a vote, consent, waiver, or proxy appointment corresponds to the name of a member, the corporation if acting in good faith is entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the member.
- b. If the name signed on a vote, consent, waiver, or proxy appointment does not correspond to the record name of a member, the corporation if acting in good faith is nevertheless entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the member if:
  1. The member is an entity and the name signed purports to be that of an officer or agent of the entity;
  2. The name signed purports to be that of an attorney-in-fact of the member and, if the corporation requests it, evidence acceptable to the corporation of the signatory's authority

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- to sign for the member is presented with respect to the vote, consent, waiver, or proxy appointment;
3. Two or more persons hold the membership as cotenants or fiduciaries and the name signed purports to be the name of at least one of the coholders and the person signing appears to be acting on behalf of all the coholders; or
  4. In the case of a corporation other than a charitable or religious corporation;
    - a) The name signed purports to be that of an administrator, executor, guardian, or conservator representing the member and, if the corporation requests it, evidence of fiduciary status acceptable to the corporation is presented with respect to the vote, consent, waiver, or proxy appointment;
    - b) The name signed purports to be that of a receiver or trustee in bankruptcy or the member, and, if the corporation requests it, evidence of this status acceptable to the corporation is presented with respect to the vote, consent, waiver, or proxy appointment.
  - c. The corporation is entitled to reject a vote, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the member.
  - d. The corporation and its officer or agent who accepts or rejects a vote, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section are not liable in damages to the member for the consequences of the acceptance or rejection.
  - e. Corporate action based on the acceptance or rejection of a vote, consent, waiver, or proxy appointment under this section is valid unless a court of competent jurisdiction determines otherwise.

### **Voting Agreements. 55A-7-30.**

- a. Two or more members may provide for the manner in which their voting rights will be exercised by signing an agreement for that purpose. The agreement may be valid for a period of up to 10 years. All or some of the parties to the agreement may extend it for more than 10 years from the date the first party signs the extension agreement, but the extension agreement binds only those parties signing it. For charitable or religious corporations, such agreements shall have a reasonable purpose not inconsistent with the corporation's charitable or religious purposes.
- b. Subject to subsection (a) of this section, a voting agreement created under this section may be specifically enforceable.
- c. The provisions of a voting agreement created under this section will bind a transferee of a membership covered by the agreement only if the transferee acquires the membership with knowledge of the provisions.

### **Proxies (PM By-Laws Article XIV)**

**Section 1:** At all Corporate Meetings of Members, each voting Member may vote in person or by proxy.

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**Section 2:** All proxies shall be in writing and filed with the Secretary of the Association. No proxy shall extend beyond a period of eleven (11) months, and every proxy shall automatically cease upon sale by the Member of his interest in the PM Properties.

### **Proxies. 55A-7-24**

- a. Unless the articles of incorporation or bylaws prohibit or limit proxy voting, a member may vote in person or by proxy. A member may appoint one or more proxies to vote or otherwise act for the member by signing an appointment form, either personally or by the member's attorney-in-fact. Without limiting 55A-1-70 (*Electronic Transactions*), an appointment in the form of an electronic record that bears the member's electronic signature and that may be directly reproduced in paper form by an automated process shall be deemed a valid appointment form within the meaning of this section. In addition, if and to the extent permitted by the nonprofit corporation, a member may appoint one or more proxies by any kind of telephonic transmission, even if not accompanied by written communication, under circumstances or together with information from which the nonprofit corporation can reasonably assume that the appointment was made or authorized by the member.
- b. An appointment of a proxy is effective when received by the secretary or other officer or agent authorized to tabulate votes. An appointment is valid for 11 months unless a different period is expressly provided in the appointment form.
- c. An appointment of a proxy is revocable by the member unless the appointment form conspicuously states that it is irrevocable and the appointment is coupled with an interest. An appointment made irrevocable under this subsection shall be revocable when the interest with which it is coupled is extinguished. A transferee for value of an interest subject to an irrevocable appointment may revoke the appointment if he did not have actual knowledge of its irrevocability.
- d. The death or incapacity of the member appointing a proxy does not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the secretary or other officer or agent authorized to tabulate votes before the proxy exercises authority under the appointment.
- e. A revocable appointment of a proxy is revoked by the person appointing the proxy:
  1. Attending any meeting and voting in person; or
  2. Signing and delivering to the secretary or other officer or agent authorized to tabulate proxy votes either a writing stating that the appointment of the proxy is revoked or a subsequent appointment form.
- f. Subject to 55A-7-27 (*Corporation's Acceptance of Votes*) and to any express limitation on the proxy's authority appearing on the face of the appointment form, a corporation is entitled to accept the proxy's vote or other action as that of the member making the appointment.

### **Electronic Transactions. 55A-1-70.**

For the purposes of applying Article 40 of Chapter 66 of the General Statutes to transactions under this Chapter, a corporation may agree to conduct a transaction by electronic means through provision in its articles of incorporation or bylaws or by action of its board of directors.