

Bylaws

Mulch & Soil Council, Inc.

Last Revised: October 11, 2023

Article I: Name

The name of this Organization shall be the Mulch & Soil Council. It shall be a membership corporation not organized for profit.

Article II: Object

The objects of the Council are:

- a) to further and promote the general business interests of the mulch and soil products industry through advertising, publicity and public relations;
- b) to foster and maintain high standards and ethical practices in the industry;
- c) to encourage and maintain a spirit of harmony and cooperation among its members;
- d) to support legislation deemed beneficial, and oppose legislation deemed detrimental to the welfare of its members;
- e) to encourage a continued improvement in the skills and materials employed in the mulch products industry;
- f) to provide a legally constituted medium through which its members may direct and coordinate their collective efforts and ideas, and by mutual endeavor,
- g) to promote and inspire public esteem by or through the dissemination of information and educational programs;
- h) to promote the growth and economic structure of the mulch and soil products industry through mutual cooperation and support of allied industry and professional groups, political subdivisions, civic organizations, and the general public;
- i) to speak for the mulch and soil industry as a whole on a national level and represent its interests at all times;
- j) to provide research programs in the development of improved products, equipment, methods, management procedures, and business practices.

Article III: Membership

Section 1. Producer Members

- (a) Sole proprietorships, partnerships, corporations or other entities actively engaged directly or indirectly in the processing of mulch and/or soil products are eligible for Producer membership. Included in such Producer membership shall be all entities controlled, directly or indirectly, by the applicant; provided that sales volumes of such controlled entities are taken into account by the Board of Directors in the calculation of the membership dues of the Producer member.
- (b) Each Producer Member in good standing shall designate a representative who **shall have one vote** and shall be eligible to hold office. Controlled entities included in the voting membership of a controlling entity shall not be entitled to a separate representative and shall not be entitled to a separate vote.

Section 2. Affiliate Members

- (a) Sole proprietorships, partnerships, corporations or other entities actively engaged in supplying products to mulch and/or soil producers are eligible for affiliate membership. Included in such Affiliate Membership shall be all entities controlled, directly or indirectly, by the applicant.
- (b) Each Affiliate Member in good standing shall designate a representative who **shall have one vote** and shall be eligible to hold office. Controlled entities included in the Affiliate Membership of a controlling entity shall not be entitled to a separate representative and shall not be entitled to a separate vote.

Section 3. Associate Members

- (a) Sole proprietorships, partnerships, corporations or other entities engaged in providing a service to mulch and/or soil producers are eligible for Associate Membership. Included in such Associate Membership shall be all entities controlled, directly or indirectly, by the applicant.
- (b) Each Associate Member in good standing shall designate a representative **who shall have one vote** and shall be eligible to hold office. Controlled entities included in the Associate Membership of a controlling entity shall not be entitled to a separate representative and shall not be entitled to a separate vote.

Section 4. Honorary Members

- (a) Honorary Membership shall be conferred by the Council to any person for distinguished service to the Council, the mulch and/or soil producers industry, or fields of activity related thereto.
- (b) Honorary Membership must be approved by a majority vote of the Board of Directors.
- (c) An Honorary Member **shall not**: pay dues, have voting privileges nor be eligible to hold office.

Section 5. Non-Profit/Institutional Members

- (a) Municipalities, State Agencies, Federal Agencies, Universities, and associations organized under Section 501(c) of the U.S. Code interested in information exchange with mulch and/or soil producers and not actively engaged directly or indirectly in the processing and/or sale of mulch and/or soil products are eligible for Non-profit/Institutional Membership.
- (b) A Non-profit/Institutional Member may be a member of committees but shall not have voting privileges in the Council and not hold a seat on the Board of Directors.
- (c) Municipalities, State Agencies, Federal Agencies, Universities, and associations organized under Section 501(c) of the U.S. Code actively engaged directly or indirectly in the processing and/or sale of mulch and/or soil products must apply as a Producer Member.

Section 6. Foreign Members

Sole proprietorships, partnerships or corporations actively engaged directly or indirectly in the processing **and/or sale** of mulch and/or soil products but not selling in any U.S. markets are eligible for foreign membership. Foreign Members do not have voting privileges nor are they eligible to hold office.

Section 7. Application for Membership

- a) All applications for membership must be submitted for the membership category for which the applicant receives the largest portion of their revenues.
- b) A complete Membership application indicating the correct Membership category shall be submitted to the Council. The application shall be accompanied by full dues payment fitting the appropriate category.
- c) The application will be processed in the manner and following such procedures as established by the Board of Directors. Any questions as to the qualifications of an applicant in the category applied for, will be addressed at the next meeting of the Board of Directors.

Section 8 Membership Dues

- a) Membership dues shall be fixed and collected in accordance with policies established by the Board of Directors .

Section 9 Membership shall be terminated by:

- (a) Death, if the member is a person;
- (b) Dissolution (including by acquisition or merger), if the member is a firm, partnership or corporation;
- (c) Failure to pay dues;
- (d) Dismissal from the Council by a majority vote of the Board of Directors at any duly convened meeting, after no less than thirty (30) day's notice with opportunity to be heard, for any action found by the Board of Directors to have been contrary and detrimental to the principals or purposes of the Council.
- (e) A membership terminated for a specified cause may be reinstated by a majority vote of the Board of Directors, provided the cause for such termination no longer exists. A membership terminated for failure to pay dues may be reinstated upon the payment of dues for the full current year.
- (f) Resignation of membership shall be made to the Council in writing at least thirty (30) days prior to such a termination.
- (g) Honorary Membership may be terminated by majority vote of the Board of Directors.

Article IV: Council Meetings

Section 1. Annual Meetings and Special Membership Meetings.

- (a) The annual meetings of the Council shall be held at a time and place to be designated by the Board of Directors.
- (b) Written notice of such annual meetings shall be mailed or e-mailed to the membership or posted on the Council website at least sixty (60) days prior to such meetings.
- (c) In the case of special or emergency meetings, voting members shall be notified in writing not more than sixty (60) days nor less than TEN (10) days prior to such meetings.
- (d) Notices of such special or emergency meetings shall inform the members of the purpose or purposes for which the meeting was called.
- (e) Special or emergency meetings may be called by the President, the Board of Directors, or by a one-fifth vote of the Voting Members.

Section 2. Quorum

A quorum necessary for the transaction of business at any duly called membership meeting shall be one-third (1/3) of the voting Members of the Council represented in person or via telecommunications by their duly accredited representatives.

Section 3. Manner of Acting

The vote of a majority of the voting members present at a meeting at which a quorum is present shall be necessary for the adoption of any matter requiring a vote by the members, except as otherwise provided herein.

Section 4. Voting by Ballot

Voting on any question or in any election shall be by voice vote, unless designated as a written ballot by the Board of Directors or not less than twenty voting

Article V: The Board of Directors

Section 1. Powers

The administration of the affairs of the Council is vested in the Board of Directors. The Board of Directors has all powers expressly granted by the Articles of Incorporation and Bylaws of the Council, and also all general authority not inconsistent therewith, to formulate the programs and administer the affairs of the Council between annual or special membership meetings. The Board of Directors of the Mulch & Soil Council are authorized to interpret all provisions of these bylaws.

Section 2. Structure of the Board of Directors

- (a) The Board of Directors of the Council shall consist of not less than five (5) nor more than twelve (12) eligible member companies and their official representatives—as nominated and elected by the vote of the voting members of the Council in accordance with the election policies and procedures adopted by the Board of Directors. Terms of office shall be three years with staggered terms so that one-third of all Directors are elected each year.
- (b) If the official representative of a member company elected to the Board of Directors shall change, the member company may appoint another official representative of the company to continue the company's seat on the Board, subject to the approval of a majority of directors present and voting at a meeting.
- (b) If a vacancy occurs on the Board of Directors due to dissolution, removal, or resignation of the elected member company a new Director member company and their official representative shall be appointed by the Directors to serve the remaining portion of such term.
- (c) Annually at the first Board of Directors meeting after the Annual Membership Business Meeting during which Directors are elected, the Board of Directors shall elect Directors to serve as officers for a period of one year or until such time as a replacement is duly elected. The officers to be elected by the Board shall be a President, a Vice President, a Treasurer and a Secretary *who shall be elected by a majority vote of the Directors, except that the offices of the Secretary and Treasurer may be combined at the discretion of the Board of Directors.*
- (d) Nominations for the election of members of the Board of Directors shall be made by the Nominating Committee during the Annual Membership Business Meeting after having secured from the nominees assurance that they are willing to serve if elected. After nominations are made by the Nominating Committee, additional nominations may be made on the floor by any voting member in good standing prior to the time nominations are declared closed by vote of the voting membership present. Any such nominee must also give assurance prior to acceptance of nomination and voting that such nominee is willing to serve if elected.

Section 3. Failure of Duty

If an officer or director fails to attend three (3) consecutive meetings of the Board, or otherwise fails to perform the duties of his office, without due cause, the Board may declare his office vacant; and in such event, or in any case in which it is necessary to fill a vacancy on the Board of Directors or in any particular office, the Board may appoint from the **voting** membership of the Council a substitute to serve the remaining portion of such term.

Section 4. Quorum

A simple majority of the installed members of the Board of Directors shall constitute a quorum. Unless otherwise provided herein, a majority vote of the members of the Board of Directors present, *and voting*, at any Board meeting shall control the action of the Board.

Section 5. Meetings

The Board of Directors shall hold a Board Meeting during the Annual Meeting of the Council. Other meetings of the Board of Directors may be held upon the call of the President. The President will issue a call for a special meeting at the request of five members of the Board of Directors, and ten days prior notice shall be given by any communication method commonly used by the Board for any such special meeting.

Section 6. Eligibility for Office

- a) Only the designated representatives of eligible member companies under these bylaws who are in good standing are eligible to hold office in the Council. Any such representative shall not be eligible to be a candidate for office unless, prior

to the time his name is placed in nomination, he/she shall have advised the Nominating Committee that he/she is willing to accept such nomination, and that if elected, he/she will serve in the office to which he/she is elected.

- b) A maximum of two (2) eligible member companies who are not Producer Members may be elected to serve concurrently on the Board.

Article VI: Officers

Section 1. Duties

- (a) It shall be the duty of the President to preside at all meetings of the Council and of the Board of Directors, issue calls for special meetings as herein provided, appoint, and for cause, dissolve all special committees, subject to approval by the Board of Directors with respect to appointment and dissolution and to serve as ex-officio member of each special committee.
- (b) It shall be the duty of the Vice President to act in the place of the President in the latter's absence or upon his request. In the event of the death, incapacity, resignation or removal of the President, the Vice President shall become President for the remaining portion of the unexpired term.
- (c) It shall be the duty of the Secretary to maintain correct records of the minutes of the meetings of the membership, the Board of Directors, and the Officers; insure that the Council, its Officers, its Directors and its employees are protected by adequate insurance against liability under federal or state regulatory laws and against public liability for damage arising out of the performance of Council duties; notify the members, Officers, and Directors of all meetings and transmit all other proper communications.
- (d) It shall be the duty of the Treasurer to collect all monies due the Council and to place same to the credit of the Council in such depositories which may from time to time be designated by the Board of Directors. From such funds he/she shall pay the obligations of the Council and keep an accurate account thereof. He/she shall render at the Annual Meeting a statement of the financial condition of the Council and render like statements to the Board of Directors at such time as the Board may direct. The Treasurer shall insure that the books and accounts shall be audited at the end of each fiscal year by a certified public accountant and that a certified copy of the audit is presented to each member of the Board of Directors within a Board accepted time period after the end of the fiscal year.

Section 2. Authority: Executive Committee

Under authority of the Board of Directors, the officers, acting as an Executive Committee, may act for the Board, between meetings of the Board, to carry out Council policies established by the Board or membership.

Section 3. Meetings

Officers' meetings shall be called by the President *or* shall be called by him/her upon written request of three Officers. The time and place of such meetings shall be designated by the President. Three (3) Officers constitute a quorum of the Executive Committee.

Section 4: Paid Officers

The Board of Directors may appoint one or more paid officers including an Executive Director. The Executive Director is responsible for carrying out policy as set by the Board of Directors. The Executive Director shall be the Chief Operating Officer (COO) of the Council and is responsible for conducting the day to day affairs of the Council and the employment and management of all paid Council personnel. The Executive Director by virtue of his/her position shall be an Assistant Secretary and Assistant Treasurer of the Council and a voting member of the Board of Directors.

Article VII: Committees

Section 1. Authorized Committees

The Executive Committee shall be the only standing committee of the Board.

Section 2. Other Committees

The President may create and dissolve any other committees of the Council with the approval of the Board of Directors.

Section 3. Committee Appointments

The President, subject to approval by the Board of Directors, shall appoint the members of all committees and designate the chairperson thereof. A member of the Board of Directors shall be a member of each committee and act as a liaison between the committee and the Board of Directors.

Section 4. Committee Authority and Function

- a) Each Committee shall meet on call of its Chairman with the approval of the President.
- b) ALL committee actions are subject to approval by the Board of Directors.

Section 5. Committee Vacancies

The President is empowered to drop inactive or absent members from committees and to fill any vacancy by appointment for the unexpired term, subject to subsequent ratification by the Board of Directors.

Article VIII: Council Funds

Section 1. Checking and Savings Accounts

Such checking and savings accounts may be established and maintained as deemed necessary by the Board of Directors for the payment of Council expenses and as a repository for Council funds.

Section 2. Investments

The Board may invest all or any portion of the Council's funds in:

- (a) institutions whose deposits are insured by the Federal Deposit Insurance Corporation or by the Federal Savings and Loan Insurance Corporation, except that no deposits in any one institution may exceed the total amount insured; or
- (b) in obligations of the United States Government or for which the full faith and credit of the United States are pledged., or
- (c) in such other investment instruments as approved by 3/4 majority vote of all directors.

Section 3. Bonding

The Officers, Directors and all employees of the Council whose duties involve the handling of monies of the Council shall furnish bond approved by the Board of Directors, the premiums of which shall be paid by the Council.

Section 4. Insurance

The Council shall maintain an insurance policy covering personal liability, property damage, bodily injury, libel, slander, false advertising, and Director & Officer (D&O) Liability, etc.

Section 5. Property

No property of this Council shall inure to the benefit of any private person.

Section 6. Contracts

The Board of Directors may authorize by Board Policy any officer or officers, agent, or agents of the Council, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Council and such authority may be general or confined to specific instances.

Article IX: Limitations

Section 1. Non-Partisan:

No vote may be taken or sanctioned by the Board of Directors, or any committee, which relates to the political preferment of any individual or group of individuals or of any political party.

Section 2. Solicitations:

No member, on behalf of the Council, shall solicit or endorse the solicitation of contributions, other than for an approved activity of the Council, unless such solicitation is first approved by the Board of Directors.

Article X: Amendment of Bylaws

These Bylaws may be amended or repealed and new Bylaws adopted by a majority vote of the voting members present at an annual or special membership meeting. Written notice of such proposed amendments shall be submitted to the Board of Directors at least sixty (60) days prior to a Meeting. The Secretary shall forward to the membership a written notice of such proposed amendment at least fifteen (15) days prior to the General Meeting at which the amendment is to be considered.

Notwithstanding the above, these bylaws may also be amended or repealed and new Bylaws adopted by a 3/4 majority vote of the total Board of Directors. Written notice of such proposed amendments shall be submitted to the Board of Directors at least sixty (60) days prior to a vote.

Article XI: Indemnification

Any present or former Director or officer of the Council, or other such persons so designated in the discretion of the Board of Directors, or the legal representative of such person, shall be indemnified by the Council against all reasonable costs, expenses, counsel fees paid or incurred in connection with any action suit or proceeding to which any such person or his legal representative may be made a party by reason of his having been a director, officer, or agent or serving or having served the Council, except in relation to matters as to which he/she shall be guilty of negligence or misconduct in respect of the matter in which indemnity is sought and in relation to matters settled or otherwise terminated without a final determination on the merits where such settlement or termination is predicated on the existence of such negligence or misconduct.