

**TAHOE DONNER ASSOCIATION  
BOARD OF DIRECTORS  
CODE OF CONDUCT & ETHICS  
CORPORATE RESOLUTION 2018-1**

**RECITALS**

A. Whereas, the Board of Directors (“Board”) of the Tahoe Donner Association (“Association”) has the primary responsibility for managing and directing the business and affairs of the Association in a manner that the Board determines, in good faith, to be to the advantage and in the best interests of the Tahoe Donner property owners; and

B. Whereas, the Davis-Stirling Common Interest Development Act and the Governing Documents of the Association empower the Board of Directors to propose and promulgate rules, regulations, and policies to supplement, interpret and guide the Board of Directors and the Members regarding issues of common concern to the Association, the Board and the Members; and

C. Whereas, the Board wishes to ensure that the persons serving on the Board of Directors maintain a high standard of ethical conduct in the performance of the Association’s business and the discharge of their fiduciary duties to the Association and its Members;

~~The~~ **NOW, THEREFORE, BE IT RESOLVED,** ~~that the~~ Board of Directors has adopted the following Code of Conduct for its ~~board members~~ Board Members. This ~~code~~ Code of Conduct is intended to provide guidance with ethical issues ~~and a mechanism~~ as well as mechanisms that are available to the Association for addressing unethical conduct and/or conduct that is in violation of specific restrictions or mandates imposed by this Code or by applicable laws relating to the proper discharge of duties by directors of nonprofit mutual benefit corporations.

**A. BOARD RESPONSIBILITIES**

I. General Statement of the Duties and Standards of Care of Nonprofit Corporate Directors. Corporations Code section 7231(a) instructs that directors of nonprofit mutual benefit corporations shall perform their duties as a director, including duties as a member of any committee of the Board upon which the director may serve, in good faith, in a manner the director believes to be in the best interests of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

Subparagraph (b) of section 7231 adds that directors are entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by: (A) One or more officers or employees of the corporation whom the director believes to be reliable and competent in the matters presented; (B) counsel, independent accountants or other persons as to matters which the director believes to be within such person’s professional or expert competence; or (C) a committee upon which the director does not serve that is composed exclusively of any or any combination of directors, persons described in paragraph (A), or persons described in

paragraph (B), as to matters within the committee's designated authority, which committee the director believes to merit confidence, so long as, in any case, the director acts in good faith, after reasonable inquiry when the need therefor is indicated by the circumstances and without knowledge that would cause such reliance to be un-warranted. What this provision of the Corporations Code is saying is that if a director is not certain regarding the facts or the laws relating to an issue that is before the Board for action or a decision or the pros and cons of various alternatives that are presented, seek the advice of competent professionals or committee members who have been charged with evaluating the issue.

The 2. General and Specific Duties of Directors of the Tahoe Donner Association. Subject to observance of the minimum standards and duties of directors set forth in Corporations Code section 7231, the general duties for directors of the Tahoe Donner Association are to enforce the ~~association's governing documents~~ Association's Governing Documents, collect and preserve the ~~association's~~ Association's financial resources, insure the ~~association~~ Association's assets against loss, and keep the ~~common areas~~ Common Areas and Common Facilities in a state of good repair. To fulfill that responsibility, directors must:

- regularly attend ~~board~~ Board meetings,
- review material provided in preparation for ~~board~~ Board meetings,
- review the ~~association~~ Association's financial reports, and
- make reasonable inquiry before making decisions ~~or recommendations to the Board or to management in the director's capacity as a member of the Board.~~

## **B. PROFESSIONAL CONDUCT:**

In general, directors must conduct all dealings with vendors and employees with honesty and fairness, and safeguard information that belongs to the ~~association~~ Association.

1. Self-Dealing. Self-dealing occurs when directors make decisions that materially benefit themselves ~~or~~, their relatives, or business associates at the expense of the ~~association~~ Association. "Relatives" include a person's spouse, parents, siblings, children, mothers and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law and anyone who shares the person's residence. Benefits include money, privileges, special benefits, gifts or other item of value. Accordingly, no director or committee member may:
  - solicit or receive any compensation from the ~~association~~ Association for serving on the ~~board~~ Board
  - make promises to vendors unless with prior approval from the ~~board~~ Board,
  - solicit or receive, any gift, gratuity, favor, entertainment, loan, or any other thing of value for themselves or their relatives from a person or company who is seeking a business or financial relationship with the ~~association~~ Association,

- seek preferential treatment for themselves or their relatives,
  - use ~~association~~Association property, services, equipment or business for the gain or benefit of themselves or their relatives, except as is provided for all members of the ~~association~~Association.
2. Restrictions on Association Employment Following Service as a Director. In order to promote good governance practices and reduce the potential for self-dealing no member of the Tahoe Donner Association Board of Directors shall be eligible for employment in a Tahoe Donner Association senior management role (defined as General Manager or a direct report to the General Manager) for a period of one (1) years from the date the Director ceases to serve on the Tahoe Donner Association Board, due either to resignation, expiration of the Director's term, or any other reason. This time period ensures that there is the opportunity for a total turnover of Board members prior to employment of the ex-Director.
3. Refraining From Improper Disclosure of Confidential Information. Directors are responsible for protecting the ~~association~~Association's confidential information. As such they may not use confidential information for the benefit of themselves or their relatives. Except when disclosure is duly authorized or legally mandated, no director may disclose confidential information. Without limiting the generality of the foregoing, but rather by way of example, individual directors act unilaterally to divulge matters, discussions or decisions of the Board that occur or are: (i) made in an executive session meeting; or (ii) when the information is included in any communications to the Board from legal counsel or others that are marked as being "Confidential". At times, matters, actions or decisions that are made in executive session are appropriate for broader communication beyond the circle of directors and others who attended the executive session meeting, however the decision to disseminate that information to others is for the Board of Directors, acting as a body, to make.

Confidential information includes, without limitation any of the following:

- private personal information of fellow directors,
- private personnel information of the ~~association~~Association's employees,
- disciplinary actions against members of the ~~association~~Association,
- assessment collection information against members of the ~~association~~Association, and
- legal disputes in which the ~~association~~Association is or may be involved--directors may not discuss such matters with persons not on the ~~board~~Board without the prior approval of the ~~association~~Association's legal counsel. Failure

to follow these restrictions could constitute a breach of the attorney-client privilege and loss of confidential information.

3.4. Misrepresentation. Directors may not knowingly misrepresent facts. All ~~asseeiation~~Association data, records and reports must be accurate and truthful and prepared in a proper manner.

4.5. Interaction with Employees. To ensure efficient management operations, avoid conflicting instructions from the ~~board~~Board to management and avoid potential liability, directors shall observe the following guidelines:

- The ~~president~~President shall be elected by the Board from among the directors. ~~He~~ The President shall be the chief executive officer of the Association and shall, subject to the control of the Board, have general supervision, direction and control of the affairs and officers of the Association. ~~He~~ The President shall preside at all meetings of the Board and shall have the general power and duties of management usually vested in the office of president of a corporation together with such powers and duties as may be prescribed by the Board or the Bylaws. (Article XI, Section 7 of the Restated Bylaws)
- An agenda for all regular meetings shall be prepared by the ~~president~~President or by management under the direction of the ~~president~~President. (Article VIII, Section 3 of the 2004 Amendments of the Restated Bylaws)
- Directors shall not attempt to direct Tahoe Donner staff; that is the responsibility of the General Manager.
- Directors may not contact management after hours unless there is an emergency representing a threat of harm to persons or property.
- If directors are contacted by employees with complaints, the employees shall be instructed to contact management or the ~~board~~Board as a whole.
- No director may threaten or retaliate against an employee who brings information to the ~~board~~Board regarding improper actions of a director or committee member.
- Directors are prohibited from harassing or threatening employees, vendors, directors, committee members, and owners, whether verbally, physically or otherwise.

5.6. Observing Proper Decorum. Directors are obligated to act with proper decorum. Although they may disagree with the opinions of others on the ~~board or~~Board or the recommendations of a committee, they must act with respect and dignity and not make personal attacks on others. Accordingly, directors must focus on issues, not personalities and conduct themselves with courtesy toward each other and toward employees, managing agents, vendors and members of the ~~asseeiation~~Association. Directors shall

act in accordance with ~~board~~Board decisions and shall not act unilaterally or contrary to the ~~board~~Board's decisions.

7. Avoidance of Unilateral Actions. Each member of the Board shall endeavor to discharge his or her duties and to take official actions that are in accordance with Board decisions and shall not act unilaterally or contrary to such decisions or in a manner that is intended to undermine the decisions or approved actions of the Board and the Association. This provision of the Code of Conduct is not intended to preclude or to restrain a director's right to express opposing or dissenting views regarding proposed Board actions or policies, as dissent is often an important element in sound decision-making. However, once a Board action or policy has been approved, it is not appropriate for incumbent directors to use their office and official position to intentionally undermine the approved action or policies of the Board.

### C. WHEN CONFLICTS OF INTEREST ARISE:

Situations may arise that are not expressly covered by this ~~code~~Code of Conduct or where the proper course of action is unclear. Directors should immediately raise such situations with the ~~board~~Board. If appropriate, the ~~board~~Board will seek guidance from the ~~association~~Association's legal counsel.

1. Disclosure & Recusal. Directors must immediately disclose the existence of any conflict of interest, whether their own or others. Directors must withdraw from participation in decisions in which they have a material interest. Notwithstanding any other law the provisions of Sections 7233 [relating to the approval of contracts or transactions in which a director has an interest] and 7234 [dealing with the quorum requirements for approving interested director transactions] of the Corporations Code shall apply to any contract or other transaction authorized, approved, or ratified by the Board.
2. ~~Violations of Code.~~Civil Code Section 5350 List of Prohibited Actions. Civil Code section 5350, which is part of the Davis-Stirling Common Interest Development Act, lists the following actions that a director and a member of a committees is prohibited from voting on:
  - (i) Discipline of the director or committee member.
  - (ii) An assessment against the director or committee member for damage to the Common Areas or Common Facilities of the Development.
  - (iii) A request, by the director or committee member, for a payment plan for overdue assessments.
  - (iv) A decision whether to foreclose on a lien on the separate interest of the director or committee member.

(v) Review of a proposed physical change to the separate interest of the director or committee member.

(vi) A grant of exclusive use common area to the director or committee member.

Civil Code section 5350(c) states that the list of prohibited actions set forth in the Code are not intended to limit any other provision of law or the Association's Governing Documents that govern a decision in which a director may have a personal interest.

#### **D. VIOLATIONS OF THE CODE OF CONDUCT; REMEDIES:**

Directors who violate the ~~association's code of conduct~~ Association's Code of Conduct are deemed to be acting outside the course and scope of their authority. ~~Anyone~~ Any director who is in violation of this policy may be subject to disciplinary action, including, but not limited to:

- censure,
- removal from committees,
- removal as an officer of the ~~board~~ Board,
- request for resignation from the ~~board~~ Board,
- declare vacant the office of the director for his or her failure to meet the Qualifications for service as a director that are set forth in this Code of Conduct (Corporations Code section 7221(b)).
- recall by the vote of the membership, and
- initial of legal proceedings to prevent further violations of the Code of Conduct.

Prior to taking any of the actions described above, the ~~board~~ Board shall appoint an executive committee to investigate the violation. The committee shall review the evidence of violation, endeavor to meet with the director believed to be in violation, confer with the ~~association~~ Association's legal counsel, and present its findings and recommendations to the ~~board~~ Board for appropriate action. The ~~board~~ Board shall endeavor to meet with the director in executive session prior to imposing disciplinary action against that person.

#### **DE. PLEDGE**

I have read the Code of Conduct and pledge to act in accordance with my obligations as described above.

DATED: ~~February 24, 2018~~ \_\_\_\_\_

#### **SIGNATURES OF DIRECTORS:**

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Jeff Connors, President

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Jeff Schwerdtfeger, Vice President

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Jeff Bonzon, Treasurer

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Jennifer Jennings, Secretary

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Darius Brooks, Director

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