

**TAHOE DONNER ASSOCIATION
BOARD OF DIRECTORS
ADMINISTRATIVE RESOLUTION 2025-21**

**POLICY FOR MAINTAINING
TAHOE DONNER ASSOCIATION'S
501(c)(4) TAX-EXEMPT STATUS**

WHEREAS, as defined by its Governing Documents, Tahoe Donner Association (“Association”) is a nonprofit, mutual benefit corporation¹ organized and operated for the purpose of owning and maintaining common areas and facilities; administering and enforcing protective covenants designed to maintain that community’s character; and for doing “any and all lawful things which may be authorized, required or permitted to be done under and by virtue of the Governing Documents, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association for the peace, health, comfort, safety or general welfare of the Owners”.²

WHEREAS, in 1992 the Tahoe Donner Board of Directors determined that “it is to the financial benefit of the corporation’s membership for Tahoe Donner Association to seek a change from our current tax status to a non-profit Internal Revenue Code 501(c)(4) Social Welfare Organization exempt tax status”.³

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WHEREAS, federal regulations specify that social welfare organizations may qualify for Internal Revenue Code 501(c)(4) tax-exempt status if the organization:

- Is not organized or operated for profit; and
- Is operated exclusively for the promotion of social welfare, meaning it is primarily engaged in promoting in some way the common good and general welfare of the people of the community, and is operated primarily for the purpose of bringing about civic betterments and social improvements; and

¹ First Restated Declaration of Covenants and Restrictions of Tahoe Donner Association, Article I, Section 3.

² First Restated Declaration of Covenants and Restrictions of Tahoe Donner Association, Article III, Section 1.

³ Resolution 1992-10, Tahoe Donner Board of Directors Resolution Approving Draft Amendment to Articles of Incorporation and Submission of Articles of Incorporation To The Membership For Approval. At the time of this policy’s adoption, the Association was considering applying for exemption from both federal and state taxes. State tax exemption would have required a change to the Articles of Incorporation. The Association did not pursue state tax exemption. Hence, the Association did not conduct a member vote on the proposed updated Articles of Incorporation. See also September 27, 1997 Board of Directors Meeting Minutes.

- Is not operated primarily as a social club for the benefit, pleasure, or recreation of its members; and
- Is not carrying on a business with the general public in a manner similar to organizations which are operated for profit; and
- Is not primarily organized for the sake of political activity, and the organization's promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office.

WHEREAS, the Association's 1993 Form 1024, Application For Recognition of Exemption Under Internal Revenue Code 501(a), demonstrates that the Association operates consistently with these and other federal requirements for social welfare organizations qualifying for 501(c)(4) status. Specifically, and as more completely described in the 1993 Form 1024 application:

THE Association functions as a social welfare organization to its members and the general public by performing its basic duties and operations under the Association's Governing Documents.⁴

THE Association also "meets the criteria established in Revenue Rulings 72-102, 74-99, and 80-63 for homeowners associations qualifying for Section 501(c)(4) status." Revenue Ruling 74-99, which modified Revenue Ruling 72-102, provides that a homeowners association may qualify for 501(c)(4) status if the homeowners association (1) serves a "community" which bears a reasonably recognizable relationship to an area ordinarily identified as governmental, (2) does not conduct activities directed to the exterior maintenance of private residences, and (3) the common areas or facilities it owns and maintains are for the use and enjoyment of the general public. Revenue Ruling 80-63 addresses specific questions that have been raised regarding Revenue Ruling 74-99.⁵ Specifically:

THE Association serves "a community which bears a reasonable relationship to an area ordinarily defined as a governmental unit." Specifically, "Tahoe Donner is a separate and distinct independent community within the newly incorporated Town of Truckee, County of Nevada, California, and has always been designated by the county as a separate 'county service area'."⁶ Pursuant to Nevada County Local Agency Formation Commission Resolution 92-06, Nevada County Board of Supervisors Resolution 92-483, and the passing of Measure H (November 3,

⁴ Tahoe Donner Association's 1993 Form 1024 Application For Recognition of Exemption Under Internal Revenue Code 501(a).

⁵ Tahoe Donner Association's 1993 Form 1024 Application For Recognition of Exemption Under Internal Revenue Code 501(a).

⁶ Tahoe Donner Association's 1993 Form 1024 Application For Recognition of Exemption Under Internal Revenue Code 501(a).

1992 General Election) by a 72.79% vote of the Truckee electorate, Tahoe Donner's original county service area was dissolved effective June 30, 1993 and reorganized pursuant to Town of Truckee Ordinance 93-16 immediately on July 1, 1993 into the Town of Truckee Special Service Area-1 (TSSA-1) without change to the service area's boundaries or purpose.

THE Association does not conduct activities directed to exterior maintenance of private residences.

THE Association's common areas and facilities are available for the use and enjoyment of the general public. Specifically:

THE Association owns extensive "greenbelt/open-space lands," and "All of these lands either touch or border upon public roadways, and most of what lies on the boundary of the development is contiguous with national forest/Forest Service land. From either the public roadways or the public forest land, the Association-owned lands are readily accessible to members of the general public who are not members of the Association. These lands support a system of unrestricted hiking and equestrian trails which are maintained by the Association."⁷ In recent decades, this trail system access has been expanded to include bicycles and certain classes of ebikes. Since 1993, the Association has substantiated free public access to Association-owned lands through deeded Conservation Easements and Memorandums of Understanding that legally guarantee and/or support such public access to and through specified Association lands, and by applying for and accepting public grant monies that are premised upon such public access.⁸

FURTHER, "The Association's management of these lands (e.g. reforestation programs), helps to reduce the risks of wildfires and erosion, not only to the Association property, but also to the

⁷ Tahoe Donner Association's 1993 Form 1024 Application For Recognition of Exemption Under Internal Revenue Code 501(a). In this context, "unrestricted" is intended to mean access, use, and enjoyment is granted without a fee, regardless of membership in the Association. The Association has always had rules governing the use and enjoyment of its common areas and other open spaces. As a public benefit, the Association also allows travel through the Association's lands and trail system to access Truckee Donner Land Trust and US Forest Service lands that would otherwise be difficult to access and/or entirely landlocked by private lands and therefore inaccessible to the public. Because the Association permits free public access to its trails and open spaces, the Association has also been able to take advantage of liability protections afforded by California law to private landowners who permit free recreational public use and enjoyment of private lands (California Civil Code §846).

⁸ These legal agreements include: "Memorandum of Understanding For The Purpose of Formalizing an Understanding for the Establishment of a Donner Lake Rim Trail," April 28, 1995; the Bucknam Tract "Conservation Easement Deed," April 30, 2010; "Memorandum of Agreement for Trail Construction, Access, and Maintenance - Donner Lake Rim Trail," May 29, 2018; the Crabtree Canyon "Conservation Easement Deed," April 7, 2016; "Agreement for Trail, Bridge, Parking Lot and Ancillary Facilities Construction, Access, and Maintenance - Crabtree Canyon, September 12, 2018; and Forest Service, U.S. Department of Agriculture (2025, March 13) Special Use Permit Tahoe Donner Association for Cross County Center, Authorization ID TRU412; FS-2700-4 (09-2020), OMB 0596-0082. These public grants include: California Wildlife Conservation Board, Euer Valley Sustainable Public Access, Agreement No. WC-2513AB, Project ID: 2024046; County of Nevada's Outdoor Visitor Safety Fund, Euer Valley Sustainable Recreation and Habitat Protection Project, Grant Award Allocation No. SR 23-4133.

surrounding public and private lands. The maintenance of these, and access provided to, these lands clearly benefit, not only the members of the community of Tahoe Donner, but the general public as well.”⁹

THE Association also owns a number of facilities that are available for the use and enjoyment of the general public. These facilities include both downhill and cross-country ski areas, the Clubhouse, the Trout Creek Recreation Center, an 18-hole golf course, the Beach Club, equestrian center, campground, tennis and pickleball courts, restaurants, and swimming pools. Only the Beach Club, Trout Creek Recreation Center, the tennis and pickleball courts, and swimming pools are restricted to members, their personal guests, and their tenants.¹⁰ Factoring in the “greenbelt/open-space lands,” these “restricted facilities” constitute approximately 5 acres out of more than 5,000 acres of common area and other open space owned by the Association. Hence, approximately 99.9% of Association owned property may be accessed, used, and enjoyed by the general public.¹¹

FURTHER, the Association regularly donates the use of its facilities to governmental and civic organizations for meetings and other social welfare purposes. To this end, the Association’s Amenity Access Rule expressly enables management to make exceptions to permit the general public to access and use the Association’s “restricted facilities,” provided such exceptions “support the Association’s tax-exempt status”.¹²

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WHEREAS, following its review of the Association’s application, the Internal Revenue Service in a letter dated July 1, 1993 determined that the Tahoe Donner Association is “exempt from Federal income tax under section 501(a) of the Internal Revenue Code as an organization described in [Internal Revenue Code Section 501(c)(4)]”.

WHEREAS, the Tahoe Donner Board of Directors finds that maintaining the Association’s tax-exempt status under Internal Revenue Code 501(c)(4) continues to confer financial and other benefits to the Association and its membership. In addition to substantial tax savings, these benefits include, but are not limited to, improved eligibility and competitiveness for grant

⁹ Tahoe Donner Association’s 1993 Form 1024 Application For Recognition of Exemption Under Internal Revenue Code 501(a).

¹⁰ As described in the Association’s 1993 Form 1024 application, these facilities are restricted for capacity, safety, liability, and other reasons. However, and as is noted in the succeeding paragraph in this resolution, the Association’s Amenity Access Rule, adopted October 10, 2024, provides for limited general public access to the “restricted facilities,” provided such exceptions “support the Association’s tax-exempt status.”

¹¹ Tahoe Donner Association’s 1993 Form 1024 Application For Recognition of Exemption Under Internal Revenue Code 501(a). These numbers have been updated to include open-space land purchases Tahoe Donner has added since 1992.

¹² Tahoe Donner Association Amenity Access Rule, adopted October 10, 2024.

funding and other public monies, regional goodwill, and a stronger basis for establishing beneficial partnerships with governmental agencies and non-governmental organizations.

WHEREAS, the Association continues to operate in substantial alignment with its 1993 Form 1024 application for recognition of exemption under Internal Revenue Code Section 501(c)(4).

WHEREAS, the following constitutes the Policy For Maintaining Tahoe Donner Association's 501(c)(4) Tax-Exempt Status and supersedes all previously approved policies pertaining to the maintenance of such status, up to and including Resolution 2015-1.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of Tahoe Donner Association approves and adopts the following Policy For Maintaining Tahoe Donner Association's 501(c)(4) Tax-Exempt Status.

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I. GENERAL POLICY

It shall be the policy of Tahoe Donner Association to maintain its tax-exempt status under Internal Revenue Code 501(c)(4) through the adoption of policies, procedures, programs, activities, and projects that promote and support such status.

The Internal Revenue Service in a letter dated July 1, 1993 suggests that changes to Association's operations may trigger re-evaluation by the Internal Revenue Service and the potential loss of the Association's 501(c)(4) status. The loss of the Association's 501(c)(4) status would be significant and could involve the following consequences:

- Loss of federal tax-exempt status
- The potential need to pay back taxes and penalties
- Revocation of state tax exemptions that are dependent on federal tax-exempt status
- Reduced eligibility and competitiveness for grant funding and other public monies
- Reduced regional goodwill
- Diminished basis for establishing beneficial partnerships with governmental agencies and non-governmental organizations

To protect its 501(c)(4) status, the Association shall continue to carry out social welfare activities and services in substantial alignment with its 1993 Form 1024 application for recognition of exemption under Internal Revenue Code Section 501(c)(4). These activities shall ensure that the Association remains organized and operated in accordance with Section 501(c)(4).

If specific social welfare activities and services described in the 1993 Form 1024 application are no longer reasonable, practicable, or possible, as prudent and necessary the Association shall establish new and/or additional social welfare activities and services to ensure that the Association continues to qualify for 501(c)(4) status.

II. POLITICAL AND OTHER ACTIVITY

The Association shall undertake no activity, political or otherwise, that may risk the Association's 501(c)(4) status. To this end, the Association shall abstain from direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office.

At the direction of the Board of Directors, and only to protect and pursue the interests of the Association and its membership, the Association may engage in other political activities such as lobbying or issue advocacy, including advocacy for or against local and state ballot measures. Such political activities shall be confined to the following matters:

- The use of public monies directly within the Association's boundaries and/or on properties in vicinity to the Association's boundaries.
- Matters that directly affect the Association's ability to fulfill its duties and exercise its powers under state law and the Governing Documents.

III. RESPONSIBILITY AND REPORTING

The Association shall adhere to Treasury Regulations and the Internal Revenue Code requirements related to the Association's 501(c)(4) status.

If staff identifies any risk to maintaining the Association's 501(c)(4) status, staff shall notify the Board immediately and the Board and staff will implement corrective measures to maintain the Association's 501(c)(4) status.

Each year following the annual audit, staff shall provide the Board of Directors with a report describing:

- The financial and other benefits that the Association's 501(c)(4) status confer to the Association and its membership.
- The Association's policies, procedures, programs, activities, and projects that promote and support the Association's 501(c)(4) status.
- Any other updates or changes relevant to the maintenance of the Association's 501(c)(4) status.

IV. APPROVAL

Approval of the Policy For Maintaining Tahoe Donner Association’s 501(c)(4) Tax-Exempt Status and any changes, amendments, or modifications thereafter, may only be accomplished at a properly noticed meeting of the Board, with reasonable time allowed for Member Comment.

ADOPTED AND DATED: November 21, 2025, by the Board of Directors of Tahoe Donner Association

Benjamin Levine, President and Director

Don Koenes, Treasurer and Director

Denise Gauny, Vice President and Director

Jay Wertheim, Vice Treasurer and Director

Courtney Murrell, Secretary and Director

CERTIFICATE OF SECRETARY

I certify that I am the duly qualified and acting secretary of the Tahoe Donner Association, a California Nonprofit Mutual Benefit corporation. The foregoing is a true and correct copy of the Resolution duly adopted by the Board of Directors at a duly noticed Board meeting held on November 21, 2025, and entered in the minutes of such meeting. The Policy as of this date has not been modified or appealed and is, as of now, in full force and effect.

DATED: _____

Courtney Murrell, Secretary