

SAMPLE CODE OF CONDUCT

[HOA]

BOARD MEMBER CODE OF CONDUCT AND COMMUNICATIONS POLICY

The Board of Directors of [HOA] Homeowners Association (“Association”) has adopted the following Code of Conduct and Communications Policy (“Policy”) for the Association’s directors and committee members, effective as of [REDACTED], 20___. This Policy is intended to set forth certain protocols and expectations relating to Board members’ fiduciary duties to the Association, and is intended to help ensure that each Board member will act in a trustworthy, diligent, honest and ethical manner while serving on the Board and/or as a committee member. Upon becoming elected or appointed to the Board, or appointed to a committee, each Board member and committee member shall be subject to this Policy. Each current director of the Association will be provided a copy of this Policy.

A. BOARD DUTIES AND STANDARDS OF CARE

The general fiduciary duties of the Association’s Board of Directors include, but are not limited to the following:

- Enforcement of the Association’s governing documents, including but not limited to the Association’s CC&Rs, bylaws, operating rules and internal policies;
- Collection and preservation of the Association’s financial assets;
- Insuring the Association’s assets against loss; and
- Maintaining the common area of the Association’s development in a state of good repair.

To fulfill those responsibilities, each director and committee member should:

1. Regularly attend Board or committee meetings, as applicable;
2. Review, in advance, materials provided in preparation for Board and/or committee meetings, as applicable;
3. Review the Association’s financial reports. Make reasonable inquiry on agenda items and other items of business before making decisions and/or casting his/her/their vote.

In accordance with California Corporations Code § 7231(a), commonly known as the “Business Judgment Rule”, Board members must perform their duties as a director (1) in good faith, (2) in a manner such director believes to be in the best interests of the Association and (3) with such care, including reasonable inquiry, as an ordinarily prudent

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person in a like position would use under similar circumstances.

B. PROFESSIONAL CONDUCT

In general, directors and committee members must conduct all dealings with third parties in good faith, in the best interests of the Association and in a manner that safeguards information that belongs to the Association.

1. No Private Gains or Self-Dealing.

Directors shall not make any decisions that materially benefit themselves or their relatives at the expense of the Association. "Relatives" include any persons related by blood, marriage, domestic partnership or adoption, such as, for example only, a director's spouse, domestic partner, parents, siblings, children, grandchildren, mothers and fathers-in-law, brothers and sisters-in-law and sons and daughters-in-law, as well as anyone who co-owns or resides in a director's or committee member's separate interest at the Association's development. A "benefit" includes, without limitation, money, rent proceeds, privileges, special benefits, gifts and other items of value.

Based on the foregoing, no director shall:

- Solicit or receive any compensation, financial or otherwise, from the Association, or any third party, for serving on the Board or any committee.
- Negotiate, provide instructions to or contract with any vendors, contractors or service providers on behalf of or for the Association without prior written Board approval.
- Solicit or receive any material gift, gratuity, favor, entertainment, loan or any other thing of value for himself/herself/themself or his/her/their relatives from a person or company who is seeking a business or financial relationship with the Association.
- Seek or obtain preferential treatment for himself/herself/themself or his/her/their relatives through or as a result of such person's membership on the Board or committee or as an official representative of the Association.
- Use Association property, services, equipment or business for the gain or benefit of himself/herself/themself or his/her/their relatives, in any material respect, except as is provided for all members of the Association.

2. Conflicts of Interest.

A director who has a conflict of interest in any business or matters before the Board shall be required to recuse himself/herself/themself from all Board discussions, deliberations and decisions involving such business.

In accordance with Civil Code § 5350, a director shall not vote on any of the following items (the following is not an exhaustive list) where they are the director:

- Discipline of the director or of another director with whom they have a special relationship.
- An assessment against the director for damage to the common area or facilities.
- A request, by the director for a payment plan for overdue assessments.
- A decision whether to foreclose on a lien on the director's separate interest.
- Review of a proposed physical change to the director's separate interest.
- A grant of exclusive use common area to the director.
- Transactions involving the director (as described in California Corporations Code § 7233).

3. No Release of Confidential Information.

Directors are responsible for protecting the Association's confidential information, including both attorney-client privileged information and documents and executive session Board meeting information and documents. As such, no director may use the Association's confidential information for the benefit of himself/herself/themself or his/her/their relatives, share any confidential information obtained as a Board with any non-Board members or third parties (other than agents, representatives, employees or attorneys of the Association who also are bound to maintain the confidentiality of the information received) or generally disseminate any confidential information obtained as a Board to any non-Board members or third parties.

"Confidential information" includes, without limitation:

- Private or personal information about any Association member or any resident of the Association's development.
- Private or personal information about any Association employees and personnel.

- Disciplinary actions against Association members.
- Information about any Association member's delinquent assessment account.
- The negotiation and formation of contracts with vendors, contractors or service providers.
- Legal matters in which the Association is or may be involved.

Directors may not discuss the merits of pending legal matters in which the Association is involved with persons not on the Board, other than with management and Association legal counsel. Failure to follow this restriction may constitute a waiver of the attorney-client privilege and result in the loss of legal protections for confidential information of the Association. No director may waive the Association's attorney-client privilege, except with the advance written approval of the Board.

4. Accuracy of Information.

Directors and committee members may not knowingly misrepresent facts and should refrain from disclosing information when not fully informed regarding any matter. All Association data, records and reports must be accurate and truthful in all material respects and be prepared in a proper manner.

5. Interaction with Management and Other Parties.

To ensure efficient management operations, avoid conflicting instructions from the Board to management and avoid potential liability of the Association, directors and committee members shall observe the following guidelines:

- The Board President shall serve as liaison between the Board and management and provide direction to management on day-to-day matters. Should the Board President fail to carry out the management directives of the Board, two other Board members may access or communicate with management and provide direction on matters already decided by the Board.
- The Board President shall serve as liaison with the Association's legal counsel. Should the Board President fail to carry out legal directives of the Board, two other Board members may access or communicate with Association legal counsel and provide direction on matters already decided by the Board.
- Directors may not give direction to management, employees, vendors, contractors or service providers, unless expressly authorized by the Board or this Policy to do so.
- No director may interfere with the conduct of the Board, as applicable, during

meetings or at any time management or a designated Board is carrying out the decisions of the Board. Each director must comply with the decisions of a majority of a quorum of the Board even if they voted against that decision.

- Directors are prohibited from harassing, threatening or intimidating other directors, management, employees, committee members, vendors, contractors, service providers, Association members or residents of the Association's development, whether orally, in writing, physically or otherwise; directors and committee members shall also take reasonable efforts to prevent their family members, guests, tenants and invitees from engaging in such conduct.
- No board member shall act independently in matters related to the Association, its members or interactions with vendors. Board members must always represent themselves as Board members when acting on behalf of the Board or the Association.
- Nothing in this Section shall limit the Board from appointing an officer other than the President to serve any function set forth hereinabove.

6. Officers- Roles and Responsibilities (Based on the Provisions of the Bylaws)

President. The president shall be the chief executive officer of the Association and, shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business and officers of the Association. He/she shall preside at all meetings of the Members and, at all meetings of the Board of Directors. He/she shall be ex officio a member of all the standing committees, if any, and shall have the general powers and duties of management usually vested in the officer of president of a corporation, and shall have such other powers and duties as may be prescribed by the Board of Directors or the Bylaws.

Vice-President. In the absence or disability of the president, the vice-president designated by the Board of Directors, shall perform all the duties of the president, and when so acting shall have all the powers of, and be subject to all the restrictions upon, the president. The vice-president shall have such other powers and perform such other duties as from time to time may be prescribed by the Board of Directors or the Bylaws.

Secretary. The secretary shall record or cause to be recorded, and shall keep or cause to be kept, at the principal executive office and such other place as the Board of Directors may order, a Book of Minutes of actions taken at all meetings of directors and members with the time and place of holding, whether regular or

special, and, if special, how authorized, the notice thereof given, the names of those present at directors' meetings, the number of members present or represented at members' meetings, and the proceedings thereof.

The secretary shall keep, or cause to be kept, at the principal executive office a membership register, or a duplicate membership register, showing the information required by law.

The secretary shall give, or cause to be given, notice of all the meetings of the Members and of the Board of Directors required by the Bylaws or by law to be given, and he/she shall keep the seal of the Association in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or by the Bylaws.

Treasurer. The treasurer shall be the chief financial officer of the Association and shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the property and business transactions of the Association, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital and surplus. Any surplus, including earned surplus, paid-in surplus and surplus arising from a reduction of stated capital, shall be classified according to source and shown in a separate account. The books of account shall at all reasonable times be open to inspection by any director.

The treasurer shall deposit (or cause to be deposited) all monies and other valuables in the name and to the credit of the Association with such depositories as may be designated by the Board of Directors. He/she shall disburse or cause to be disbursed the funds of the Association as may be ordered by the Board of Directors, shall render to the president and directors, whenever they request it, an account of all of his/her transactions as treasurer and of the financial condition of the Association and shall have such other powers and perform such other duties and responsibilities as may be prescribed by the Board of Directors, the Bylaws or the California Civil Code. The treasurer will not take any action to transfer, withdraw or utilize Association money without the Board's express approval.

7. Professional Behavior.

Directors and Officers are obligated to act with proper decorum during Board Meetings and at any time they are carrying out the business of the Association.

Although directors may disagree with the opinions of others on the Board, or with the vote of a majority of the Board, each director must treat all other Board with respect. Accordingly, directors must endeavor to conduct themselves with courtesy toward each other, management, employees, vendors, contractors, service providers, Association members and residents of the Association's development. A decision of the Board (as defined under the Bylaws) shall be considered the decision of the Board, and each director shall carry out and support the decisions of the Board, shall act in accordance with Board decisions and shall not act unilaterally or contrary to the Board's decision(s).

8. Policy Against Tape Recording or Video Taping Board and Association Meetings.

Board and Association member meetings are open to Association members only. Moreover, Association members in attendance at those meetings have the right to speak freely during homeowner forum without the fear or intimidation of being recorded without their consent. Finally, the Board has the authority to adopt rules regulating the conduct of attendees at Board and member meetings. As such, it is the policy of the Board that the taping or recording of Board or Association meetings by any persons (Association members, directors or otherwise) is strictly prohibited.

C. ADHERENCE TO DIRECTOR QUALIFICATIONS

Each Director shall be required to comply with any qualifications for Directors and committee members, as applicable, as may be set forth in the Association's election rules and/or Bylaws to the extent permissible under applicable law.

D. VIOLATIONS OF POLICY.

Directors or committee members who violate any of the provisions of this Policy shall be deemed to be acting outside the course and scope of their authority, and may be subject to discipline in accordance with the Association's governing documents, including, without limitation:

1. Censure.
2. Removal as an officer of the Board or removal as a committee member.
3. Recall by the membership (for Board members).
4. Legal action.

Notwithstanding anything in this Policy to the contrary, all committees, and all committee

members, shall at all times serve at the pleasure of the Board.