

WHEREAS, Article VIII, Section 1(a) of the Bylaws of the Association state “the Board of Directors shall have power to adopt and publish rules and regulations governing the use of the common area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;” and

WHEREAS, Article V, Section 6 of the Bylaws of the Association state “Directors agree to be bound by any Code of Conduct as may be adopted by the Board of Directors”; and

WHEREAS, the Board has established the goal of conducting the business of the Association with high levels of dignity, civility, and respect for the Association as an entity and for the individual members of the Association, Board, and Committees; and

WHEREAS, the Board has decided to establish a code of conduct for itself and its Committees in order to further its efforts to accomplish its goal.

NOW, THEREFORE, BE IT RESOLVED that the Board adopts the following code of conduct as its formal policy:

#### **I. CONDUCT AND DECORUM AT MEETINGS**

- A. Board members shall exercise their best efforts to attend and be on time at all meetings or functions of the Board of Directors and shall plan to be in attendance at all times during the proceedings. Whenever a Board member knows in advance that he cannot attend a meeting, will be late for a meeting, or will have to leave a meeting early, he shall exercise his best efforts to inform the President or Community Manager in advance of the meeting.
- B. There shall not be a dress code for Board meetings. Casual and informal clothing is perfectly acceptable attire; however, each Board member is expected to dress consistently with the Board's objective of promoting and pursuing a high standard of respect and decorum at its meetings and functions.
- C. When the President calls the meeting of the Board of Directors to order, all members of the Board shall turn off any cell phones, beepers, or other forms of telecommunications equipment which might interrupt the fluidity of the Board meeting or distract any other member of the Board. If special circumstances warrant the use of such equipment, then the member of the Board who wishes to use such equipment shall make arrangements with the President to obtain permission to do so before the President calls the meeting to order.
- D. When the President calls the meeting to order, all members of the Board shall organize their reading materials pertaining to the meeting and put away any other unrelated material. All conversation with seat mates shall immediately cease, as well as any other activity which might interrupt the fluidity of the meeting or distract any member of the Board.
- E. Eating of food during the meeting at the table where the Board conducts its business shall be prohibited, unless the President waives the prohibition for all members of the Board, which the President may do under special circumstances; otherwise, all eating of food during the meeting must take place in a specially

- designated eating area. Drinking of beverages during the meeting at the table where the Board conducts its business shall be permitted.
- F. When a member of the Board wishes to speak at a meeting or function of the Board, he shall raise his hand and wait for the President to formally recognize him for the purpose of granting him the floor. No member of the Board shall speak out of order or without recognition from the President, nor shall any member of the Board engage in any activity which interrupts or distracts any member of the Board when another member of the Board has the floor for discussion purposes. The President shall not recognize any member of the Board more than once on any motion until all members of the Board who wish to discuss the motion have had an Opportunity to speak. At all times, the President shall determine who has the floor to speak and may impose uniform time limitations.
  - G. Board members shall not use inappropriate body language, or verbal tone during their debate of the issues. Any actions or comments designed to insult, demean, or attack the personal character or opinion of any member of the Board, the Board as an entity, an employee or member of management, or an invited guest shall be strictly prohibited. Board members owe a special duty of civility to the Association's membership and shall be particularly courteous to the individual members at all times during official functions of the Association.
  - H. The President shall have the unilateral authority to enforce the code of conduct or may do so in response to the un-seconded request of any other member of the Board if the President agrees with the request. The first step of enforcement shall consist of the President issuing a call to order to the particular member of the Board, who then must obey the directive immediately; however, the member called to order shall have the right to appeal the President's ruling, which appeal shall be open to debate and vote of the Board.
  - I. In any instance of a flagrant or repeated violation of this code of conduct, the President may unilaterally issue a ruling to that effect against the offending member and may require the offending member of the Board to leave the premises of the meeting. Any such ruling shall not be appealable by the offending member and must be immediately obeyed, unless another member of the Board wishes to appeal the President's ruling, in which case the appeal shall be open to debate and vote of the Board.
  - J. The Board further reserves additional enforcement powers, as set forth in Section V.

## **II. DUTY OF RESPECT FOR BOARD**

- A. All members of the Board owe a duty of respect to the Board of Directors as an entity, particularly with respect to its formal votes and formally approved policies. If conducted civilly, robust disagreement between members of the Board is perfectly acceptable behavior and even strongly encouraged, as it is often necessary and appropriate for the development of the best decision-making process; however, once the Board formally votes on a matter, no member of the Board shall engage in any unauthorized activity which undermines the ability of the Board to successfully effectuate the results of the vote. The duty of respect

- owed to the Board requires dissenting members to work within the formal procedures of the Board to modify or revise the previously adopted votes or approved policies with which they disagree. Dissenting members of the Board may voice their disagreements with any such votes or policies at any official function of the Association, but must do so in a manner which shows respect for the Board as an entity.
- B. All members of the Board shall recognize that their individual behavior is a reflection upon the Board as an entity; therefore, they shall at all times refrain from any public conduct within the community which would bring the Board into disrepute.

### **III. DUALITIES AND CONFLICTS OF INTEREST**

- A. Members of the Board owe a fiduciary duty to the Association which requires them to consider only the best interests of the Association when they vote on any matter and to exclude any competing interest from their consideration. If a member of the Board has any duality of interest, concerns which compete with his fiduciary duty, or any conflict of any sort, then he must disclose such interest, concern, or conflict on the record. If he believes that such interest, concern, or conflict prohibits him from the exercise of his fiduciary duty, then he must recuse him/herself from voting or discussing the motion and announce his intent to do so. If he believes that such interest or concern does not rise to the level of a conflict of interest and does not impede his ability to exercise his fiduciary duty, he must state his reasons on the record and bar intent to participate in the discussion and vote on the motion. Under such circumstances, the President shall have the authority to call for a vote of the other members of the Board to approve the right of the member to participate in the discussion and vote. Under such circumstances, the other Board members shall presume good faith on the part of their fellow member of the Board, and should not vote to disapprove their fellow Board member's right to participate in the discussion and vote unless there is clear and convincing evidence that the member's participation in the discussion and vote would damage the integrity of the Board and be injurious to the interests of the Association.
- B. Under no circumstances shall any member of the Board participate in the discussion or vote on any matter in which the member has a conflict of interest. For the purposes of this resolution, the term "conflict of interest" shall include, but not be limited to, the following situations:
1. Whenever the Board intends to review a case involving the compliance of a member of the Board with the Association's legal requirements, the relevant Board member must recuse himself from the discussion and voting on the matter.
  2. Whenever the Board intends to review a contract or expenditure of funds involving the direct pecuniary interest of a Board member, the relevant Board member must recuse himself from the discussion and voting on the matter.

- C. No member of the Board shall vote to approve the expenditure of funds for the acquisition of services or goods from any Board member, relative of a Board member, or entity which is affiliated with any of the Board members or their relatives, unless the Board member with such relationship discloses the relationship on the record and there is convincing reason to believe that a vote in favor of such an expenditure would be in the best interests of the Association. Under such circumstances, the vote must pass by at least a two-thirds majority of a quorum of members of the Board of Directors.  
(Example: The brother-in-law of a member of the Board is the part owner of a landscape company which submits a proposal for services to the Association. With price, track record, and quality of service considered, the proposal appears to be the best proposal in a competitive bid situation. The related member of the Board clearly has a duality of interest which he must disclose on the record before the Board begins its discussion. If he believes that the duality of interest does not impede his ability to exercise his fiduciary duty, and therefore he intends to participate in the discussion and voting on the matter, he must disclose his intent to do so. The President may call a vote of the other members of the Board to approve his right to participate in the discussion and vote on the matter. If the Board does not disapprove his right to participate in the discussion and votes on the matter, then the Board may proceed with a vote on a motion to retain the landscape company operated by a relative of the Board member, but it must pass by at least a two-thirds vote of a quorum of members of the Board.)
- D. Under no circumstances shall any Board member solicit a gift or gratuity of any sort from any vendor or professional serving the Association (or attempting to obtain business from the Association). Any member of the Board who receives an unsolicited gift or gratuity must promptly disclose his receipt of the gift or gratuity at a duly convened meeting of the Board. The Board of Directors shall then decide on the public record whether the member of the Board should return the gift, turn it over to the Association, or, if the gift is of innocuous consequence or nominal value, keep the gift. This prohibition does not cover situations where members of the Board meet with a vendor or professional to discuss business matters of the Association at times when it would be ordinary to eat breakfast, lunch, or dinner and the vendor or professional pays for the meal. Such circumstances shall be considered ordinary and acceptable acts of professional courtesy on the part of the vendor or professional.

#### **IV. CONFIDENTIALITY REQUIREMENT**

- A. All members of the Board shall recognize that matters pertaining to the Association's business conducted in executive session shall be kept confidential and not disclosed to the community membership or to members of the public at large. The same applies to any written communications from legal counsel devoted as a confidential document. Board members shall not disclose confidential information (as that term is defined below) under any circumstances to any person not on the Board without the express consent of a majority of the Board voting at a duly convened meeting of the Board of Directors.

- B. In any instance when a Board member might be confused about the confidentiality requirements and in order to minimize the possibility of inadvertent disclosure, Board members shall consult with the President before making any disclosure to any third party which might arguably release any confidential information covered by this Resolution, as that term is defined below.
- C. All confidential information is the property of the Association. Board members shall keep in strict confidence any and all information, documentation, records and devices which contain confidential information, and upon the expiration of the Board member's term, shall return all confidential information in his possession to the Board and shall keep confidential all non-tangible confidential information.
- D. For the purpose of this Resolution, the term "confidential information" shall mean any information related to:
  - 1. Communications with the Association's legal counsel or professional consultants.
  - 2. Pending litigation.
  - 3. Pending matters involving formal proceedings for enforcement of the governing documents or rules or regulations of the Association.
  - 4. Pending negotiations for transactions involving the Association and agreements containing confidentiality requirements.
  - 5. Minutes of meetings of Executive Sessions of the Board of Directors, and the substance thereof.
  - 6. Confidential information shall not be deemed to include information:
    - a. that at the time of disclosure is available to the general public through public records or records of the Association which the Association must make available to the members for inspection or copy under state law.
    - b. that an administrative agency or court of competent jurisdiction orders to be disclosed, provided however, that upon receipt of any order, subpoena, or summons of any kind, before providing the information of document requested the Board member shall give the Association immediate notice thereof in order to allow the Association an opportunity to protect its confidential information. The Board member shall provide all necessary cooperation for this purpose.

## **V. ENFORCEMENT**

In addition to the enforcement remedies provided to the President stated in Section I.H and Section I.I the Board may enforce this resolution by the following means: private reprimand, public censure, suspension from the Board for a maximum of two months, or the initiation of a removal action.

Any Board member who violates this code of conduct, agrees that the Board of Directors may seek injunctive relief against him/her and agrees to pay the attorney's fees incurred by the Board in that enforcement effort.

The Board shall not take any such enforcement action against any Board member until the Board votes on the public record to cite the member of the Board with a flagrant or repeated violation of the code of conduct cited herein. The Board must then provide the Board member in question with written notice of the alleged violation and an opportunity to be heard on the matter at a duly convened meeting of the Board. Once the Board concludes this process, it may vote to impose or pursue any of the enforcement actions cited above.

## **VI. MISCELLANEOUS**

- A. The use of pronouns throughout this Resolution are meant to be interchangeable. The use of the term "he" includes "she" and vice versa.
- B. This Resolution is fully applicable to all Committees. As applicable, the use of the term "Board" shall be changed to the term "Committee", and the use of the term "President" shall be changed to the term "Chairman."
- C. The Board partners with the Community Manager to ensure that the needs of the Community are met. They recognize the Community Manager is the primary point of communications between the Board and vendors and between the Board and the community members. Board members have a duty of loyalty and respect to NCA, its employees or members of management, and other Board members. No Board member will interfere with the system of management established by the Board. Management reports to the Board President and all concerns with management should be channeled through the Board President.
- D. Existing and future community leaders, including persons running for election to the Board of Directors will be given a copy of this Code of Conduct and will be asked to sign that they have received it, have read it and agree to abide by it.

Adopted May 6, 2009

Revised December 3, 2015