

STRANDMEER HOME OWNERS ASSOCIATION

CONSTITUTION

CONSTITUTION OF THE HOME OWNERS' ASSOCIATION

1. NAME

The name of the Association is the STRANDMEER Home Owners Association.

2. DEFINITIONS

In this constitution, unless the context indicates the contrary:

- 2.1 "The Association" shall mean the Strandmeer Home Owners Association.
- 2.2 "The Township Area" shall mean the Subdivisions of Erf 983 Keurboomstrand, Bitou Municipality, District of Knysna, Western Cape inclusive of the private road and private open spaces.
- 2.3 "Person" shall include a company, club, trust, partnership or other association of persons entitled by law to hold title to immovable property.
- 2.4 "Member" shall mean a member as defined in clause 4 hereof.
- 2.5 "Council" shall mean the City Council of Plettenberg Bay.
- 2.6 "Occupant" shall mean the owner of a property or any other legal occupant in charge thereof such as a tenant.
- 2.7 "General Property" means those portions of the Township Area that is not capable of private ownership and includes the road and road reserves.
- 2.8 "the Committee" refers to the Executive Committee elected in terms of clauses 6 and 7 hereof.
- 2.9 "Republic" refers to the Republic of South Africa as described in the constitution of said Republic.
- 2.10 Other definitions as required by circumstances.

3. OBJECTIVES

The Strandmeer Home Owners Association is a Body Corporate. It's objectives are to:

- 3.1 through the elected executive committee set and enforce standards for high density communal life within the Township Area, in such a way that all members may derive the maximum collective benefit therefrom by concentrating on the promotion of a sympathetic and conjugal atmosphere .
- 3.2 promote and enforce acceptable aesthetic, environmental and architectural styles and design criteria for the Township Area in order to conserve the harmonious character thereof;(Annexure A Design Guidelines For Strandmeer)

- 3.3 control and maintain the common services and land, and in particular the private open spaces, the private road and its reserve area; and
- 3.4 to control, manage and maintain all improvements upon the Common Area including all boundary walls and fences;
- 3.5 to manage and maintain the common areas with special reference to the sewage system, storm drainage system, streetlights and security system, to cultivate gardens and to beautify same and to undertake certain garden services on behalf of the members, if authorized thereto by members of the association.
- 3.6 To acquire the necessary finances from members to attain its set objectives by the implementation of monthly levies, and special levies when necessary;
- 3.7 To employ a worker or workers to attend to the removal of refuse and to attend to other tasks as may be identified by the committee in the exercise of its authority.
- 3.8 To take such steps as may be necessary to accomplish these objectives.

4. MEMBERS

- 4.1 Membership of the Association shall be compulsory and automatic upon the registration of an erf in the development area in the name of the Member, and Members shall be obliged to comply with the provisions of this Constitution and any rules or regulations in terms hereof.
- 4.2 No person shall be entitled to cease to be a Member of the Association while remaining the registered owner of an erf in the development area or be entitled to resign therefrom.
- 4.3 When a Member ceases to be a registered owner of an erf in the development area he shall *ipso facto* cease to be a Member of the Association.
- 4.4 Membership shall be transferred by the passing of transfer of any erf in the complex from the previous Member to the new Member.
- 4.5 A Member shall not be entitled to sell or transfer an erf in the complex unless it is a condition of the Deed of Sale that the new purchaser becomes a Member of the Association.
- 4.6 When an Erf is registered in the name of more than one transferee, all the registered owners of the Erf shall be deemed jointly and severally to be one Member of the Association;
- 4.7 The rights and obligations of a Member shall not be transferable and every Member shall:
 - 4.7.1 to the best of his ability further the objects and interests of the Association;
 - 4.7.2 be jointly liable with all the Members for all expenditure incurred or foreseen in connection with the Association;

4.7.3 insure his property for its replacement value and, on demand by the Association, provide proof of such insurance.

4.7.4 comply with the rules made by the Association.

4.8 No Member shall transfer his erf until the Association has certified that the Member has at the date of transfer fulfilled all his financial obligations to the Association.

5. CESSATION OF MEMBERSHIP

No member ceasing to be a member of the Association for any reason shall, (nor shall any such member's executor, curators, trustees or liquidators) have any claim upon or interest in the funds or property of the Association, but this clause shall be without prejudice to the rights of the Association to claim from such member or his estate any arrear levies or any sums due from him to the Association at the time of him ceasing to be a member.

6. COMMITTEE

The powers of the Association, except where they have to be executed by the General Meeting, must be executed by the Executive Committee (Excom).

7. EXECUTIVE COMMITTEE (Excom)

7.1 The Excom shall consist of not less than 3 (three) and not more than 5 (five) persons who shall be a Members, or a spouse of a Member, or, if the Member is a company, trust or other association of persons, the duly authorized representative of such entity. The Excom Members shall be eligible for re-election.

7.2 Each Excom Member shall continue to hold office from the date of his commencement of office until the Annual General Meeting following his said appointment, at which meeting each Trustee shall be deemed to have retired from office as such and will be eligible for re-election to Excom at such meeting.

7.3 Upon any vacancy occurring in the Excom prior to the next Annual General Meeting, the vacancy in question may be filled by a person nominated by those remaining for the time being of Excom. The Excom shall within 14 (fourteen) days after the Annual General Meeting appoint a Chairman who shall hold office until the following Annual General Meeting. In the event that the Chairman's position is vacated, The Excom shall immediately appoint one of their number as a replacement in such office.

7.4 Except as otherwise provided, the Chairman shall preside at all meetings of the Excom and all general meetings of the Members and, in the event of his not being present within 5 (five) minutes of the Scheduled time for the start of the meeting or in the event of his inability to act, a Chairman shall be appointed for the meeting.

7.5 Each Member of the Excom shall be entitled to one vote and any resolution shall be carried on the simple majority of votes casted at the Excom meeting.

7.6 No person shall be a Member of the Excom should such person:

7.6.1 be an unrehabilitated insolvent; or

- 7.6.2 be convicted of fraud or theft.
- 7.7 Any member of the Excom shall be entitled to be re-imbursed for any costs or disbursements incurred in the fulfillment of his duties as a Excom member. No Excom member shall be re-imbursed for his time spent as an Excom member in carrying out his duties and functions, unless the members by a simple majority decide otherwise and then only on such terms and conditions as such members may agree upon.
- 7.8 Meetings and procedures:
- 7.8.1 Members of the Excom may give notice of meetings, meet for the conclusion of business, adjourn or arrange their meetings as they may deem fit. It will not be necessary to give notice of a meeting to any member of the Excom if he/she is not within the Republic.
- 7.8.2 Any member of the Excom may convene a meeting of the Excom by giving at least 5 (five) days notice of the meeting proposed by him to the other members of the Excom of which the reason for the calling of such meeting is set out for the understanding that in urgent matters shorter notice may be given depending upon the circumstances.
- 7.8.3 A quorum of the Excom will be made up by 3 (three) members of the Excom when there are 4(four) or 5(five) members and by 2(two) when there are 3(three) members in the Excom. Should there not be a quorum present at any meeting after 30 (thirty) minutes after predetermined time of the meeting such meeting will be adjourned until the next business day at the same time.
- 7.8.4 The members of the Excom may from time to time appoint a person as secretary of the association to undertake the normal functions of a secretary and to attend all meetings and to keep minutes thereof.

7.9 Powers of the Excom:

The management and administration of the Association will vest in the Excom, who will exercise such powers of the Association and as such acts on behalf of the Association, that have not been reserved to be exercised or implemented as such by the General Meeting of the Association, in terms of this constitution. Without limiting the generality of the aforesaid, such powers may include but will not be limited to the following:

- 7.9.1 To set applicable standards for community life and to manage and maintain the property in the township area. (See Annexure B House Rules.)
- 7.9.2 The exercise of all acts necessary to attain the objectives as set out herein, whether expressly or impliedly;
- 7.9.3 The investment and reinvestment of funds of the Association that is not immediately required upon such a way as they may determine from time to time
- 7.9.4 To operate a banking account with all powers required by such institution;

- 7.9.5 To draft, enter into and to give effect to agreement or contract to the benefit of the Association;
- 7.9.6 To employ and remunerate agents, employees and other parties;
- 7.9.7 To institute legal action in the name of the Association or to defend any action against the Association and to appoint a legal representative for such purposes. In particular, and without limiting the generality of the aforesaid to have a right to issue summons against members for the payment of arrear levies and/or for the execution of their duties in terms of the constitution, the cost of which would be for the account of the particular member.
- 7.9.8 To from time to time lay down and impose rules and regulations on all members and occupants of the township area to accomplish the objectives of the Association and to amend or replace such rules and regulations where and when necessary. (See Annexure B House Rules.)
- 7.9.9 To approve of any additions or alterations to dwellings within the existing architectural style of the township area and to ensure that similar building materials are used in the construction and in particular to ensure that the exterior design and maintenance of such buildings as well as the materials and colours used thereon are such that it ensures a decent and aesthetically acceptable character of the township area. (See Annexure A Building Guide Lines.)
- 7.9.10 The conditions of 7.9.9 will be mutatis mutandis applicable to all other works on township erven of members including but not restricted to fences, pergolas, boundary walls and paving.
- 7.9.11 The authority of the Excom in exercising their duties is limited to amounts and contract- periods as decided by the General Annual Meeting. For any amount and/or contracts and/or law-suits exceeding the authorised amounts a Special General Meeting must be convened for approval amendment or disapproval of the amount, contract or law-suit.

7.10 The validity of acts by all members of the Excom

No act by a member of the Excom shall be invalid simply because of a problem with the appointment to, or the continuance in office of that member of the Excom, and such act shall be valid as if such member of the Excom has been duly nominated and appointed to such office.

7.11 Remuneration

Members of the Excom will be entitled to repayment of all reasonable and bona vide expenses incurred by them in connection and coherent with the exercise of their duties as members of the Excom, except for as far as provided no member of the Excom will be entitled to any remuneration, fees or salary for the execution of his duties. No member of the Excom or his family will be entitled to enjoy the benefits of a contractual relationship with the Excom or the Association.

7.12 Indemnity

No member of the Excom shall be responsible unto the Association or any member thereof or to any other person whoever for anything done or not done by themselves, the Association or its employees or agents. A member is furthermore indemnified by the Association against any loss or damages suffered by him as a result of any deemed responsibility provided that such member acted according to the information available to him in good faith and without malice.

8. GENERAL MEETINGS

8.1 Over and above the special General Meeting referred to in clause 8.3 hereunder the members of the Association will hold ONE (1) Annual General Meeting each year at such place and time, not further than TEN (10) kilometres from the township area as may be determined by the Excom but in such a manner that no more than FIFTEEN (15) months will pass in between TWO (2) consecutive meetings. The matters to be dealt with at the Annual General Meeting will include the following:

8.1.1 A report on the matters of the Association, including: an operational budget for the following year;

8.1.2 The acceptance of the balance sheet and accounts of the previous financial year;

8.1.3 The consideration of any proposal affecting matters of the Association of which due notice was given;

8.1.4 The election of members of the Excom;

8.1.5 Any matters of which due written notice was given at least TWENTY ONE (21) days prior to the date of such meeting.

8.2 The Annual General Meeting will be called with no less than TWENTY ONE (21) days written notice to each member's last known address together with the minutes of the previous Annual Meeting, the financial accounts of the preceding year, the agenda, as well as nomination forms and a proxy form.

8.3 Special General Meetings:

The Excom may call a Special General Meeting when it is deemed to be in the interest of the Association.

A special meeting will also be called for after receipt of a special written request by no less than TEN (10) members addressed to the Chairman of the Excom.

A Special General Meeting will be called with no less than FOURTEEN (14) days written notice to each member. The notice will contain the place, the date and the time of the meeting as well as the general nature of the matters to be discussed, with the clear understanding, that any meeting will be considered to have been called in a due and proper fashion if 25% of members or more of the Association approve thereof despite the fact that shorter notice might have been given.

8.4 Legality of meetings:

The fact that no notice was mistakenly given of a meeting or the fact that any member normally entitled to such notice did not receive same will not invalidate such meeting or any of the decisions taken there at.

8.5 Quorum:

No matters will be discussed at any meeting unless a quorum is present. The quorum for all circumstances will be no less than 50% plus 1 (one) of the total number of members.

8.6 Adjournment:

If a quorum is not present within THIRTY (30) minutes from the time stipulated for the commencement of the meeting, such meeting should, if convened at the request of members, be cancelled. In all other cases it will be adjourned until the corresponding day of the next week at the same time and to be held at the same place and if there is no quorum at such reconvened meeting within half an hour of time stipulated for such meeting, then the members present at such meeting will form a quorum. All members of the Association must receive notice of such an adjournment of the meeting.

8.7 The Chairman of the Excom will act as Chairman of each General Meeting but if the Chairman is not present the Vice Chairman will act in his place. If both should be absent a member of the Excom will act as Chairperson. If no member of the Excom is present, the meeting shall elect a Chairperson for such a meeting.

8.8 Voting:

At all General Meetings any motion that is tabled shall be put to the vote immediately in accordance with the following principals:

8.8.1 Each member present shall have ONE (1) vote for each Erf registered in his/her name;

8.8.2 Each person present by way of a Power of Attorney shall have one vote for each Erf registered in the name of the member he is representing;

8.8.3 Each member and each holder of a Power of Attorney on behalf of a member will vocally announce how he has brought out the votes that he is entitled to bring out unless the meeting decides that it shall be held in secret;

8.8.4 All decisions will be taken by an ordinary majority of all members present in person or by proxy and who votes at the meeting;

8.8.5 The Chairman of the meeting will count all votes for and against a proposal and will declare that it has been accepted or rejected as the case may be;

8.8.6 A declaration by the Chairperson of the outcome of the voting and a recording thereof in the minutes of the Association will be sufficient proof that a resolution was made.

8.9 Incapacity:

In the event of a member being declared unfit to manage his own affairs or if he has been declared insolvent or as a wastrel or in the event a company if it has been placed under judicial management or in liquidation, such member will be represented by his/her curator bonis, trustee, judicial manager or liquidator as the case may be, who will be able to vote on behalf of such member, either personally or by his representative under proxy.

8.10 Co-ownership:

In the event that an Erf is registered in the names of two co-owners, then when any matters are brought to the vote the owners themselves will decide who brings out the vote. Where the co-owners of an Erf are both natural persons and a company, the vote of the natural person will count.

8.11 Proxy

8.11.1 Votes may be brought out in person or by proxy.

8.11.2 All proxies should be given in writing and upon the normal manner or in any other format approved of by the Excom and shall be signed by the member, his attorney or agent acting under his/her written authority or if the member is a company, is under signed by a official duly authorised thereto.

8.11.3 The written proxy to act on behalf of a member together with the Power of Attorney or a notarial copy thereof in terms of which such person signs the first proxy must be handed in at the domicilium citandi of the association by no later than Twenty Four (24) hours on or before the nearest workday before the time determined for the meeting or the adjourned meeting at which the person mentioned in such proxy must vote, and if this was not done such representative will not be allowed to bring out a vote at the meeting.

8.12 Company/Trust

Any company that is a member of the Association may authorise by a resolution of its board of directors or any other management institution, any person that it may deem fit to represent it at any meeting of the Association and the person thus authorised shall be entitled to the same powers that the company he is representing would have had, had it been a natural person. The same conditions will apply in the case of a Trust.

8.13 Disqualification:

No member who may otherwise in terms the constitution be entitled to take part in the affairs of the General Meeting or who may declare himself eligible for election as a member of the Excom, will be entitled to do so if his monthly levies are in arrears for a period longer than THREE (3) months.

9. STATUS OF ASSOCIATION

The Home Owners Association will be a Body Corporate:

- 9.1 with legal capacity that can sue and may be sued in its own name and that may acquire moveable and immovable property;
- 9.2 of which no member in his personal capacity will have any right to the title or interest to or in the property, funds or assets of the Association and which property funds or assets will vest in the Association and will be managed by the Excom in terms hereof;
- 9.3 that will not be an Association for gain but be for the benefit of the owners and occupiers of immovable property situated within the township area.

10. LEVIES

- 10.1 The Association, through the Excom, will have the authority subject to any conditions or guidelines imposed by the General Meeting:
 - 10.1.1 to administer a levy fund for administrative expenses that will be sufficient in the view of the Excom to cover all costs in attaining the objectives of the Association;
 - 10.1.2 to require from members whenever it may be necessary to pay a reasonable levy to cover any claim against the Association;
 - 10.1.3 to determine from time to time amounts that will be levied for the purposes set out above;
 - 10.1.4 withhold the right to give transfer of a unit by a member unless all levies or other money due to the Excom relating to such unit has been paid or adequate provision has been made for the payment thereof to the Excom.
- 10.2 Any levy levied in terms of this constitution will become due and be payable upon demand from the time that the decision was made by the Excom and it can be recovered by the Excom in any way of any action in any court including the Magistrate's Court with adequate jurisdiction from persons who were members at the time when the said decision was made. Interest will be levied on all amounts outstanding for longer than SEVEN (7) days at the prime rate of interest as charged by ABSA Bank until the date of payment thereof.
- 10.3 The Excom may in determining the levy, not distinguish between natural and legal persons.

11. ACCOUNTING RECORD

- 11.1 The Excom will ensure that proper accounting records of all administration and finances of the Association are held at the domicilium citandi et executandi of the Association or such other place/s as may be required and it will produce annually an audited balance sheet and income statement.

- 11.2 The Excom will be obliged to table an audited balance sheet and income statement for approval to the Association at a General Meeting.
- 11.3 The Association's financial year will be from the 1st November until the 31st October of the following year.
- 11.4 The appointment of the auditor will only take place at the Annual General Meeting.

12. DOMICILLIUM

- 12.1 For the purposes of this agreement, including all notices to be given and the serving of all legal process, the Association chooses as its domicilium citandi et executandi the following:
 - 12.1.1 The office of the Association and its agents Plett Property Management. P.O. Box 1303, Plettenberg Bay, 6600.
 - 12.1.2 Each member – at the Erf registered in his name with the understanding that the Association or any member may at any time change his/her domicilium citandi et executandi to another address by written notice upon the express condition that should the owner be living outside the country's borders that the address of a local agent will be given. Such new address may not be a postal box or poste restante and such notice will only take effect FOURTEEN (14) days after receipt of such notice.
- 12.2 Any written notice that is given in terms this constitution may be given by delivery by hand or email or by the posting of such notice by prepaid registered mail in which case it will be deemed that such notice was duly received TEN (10) days after it has been posted at any post office within the Republic of South Africa. The production of proof of the posting of registered fees will be full and ample proof of the date of the date of posting of such notice.

13. VOLUNTARY LIQUIDATION

- 13.1 The Association can be liquidated by way of the decision of the General Meeting on condition:
 - 13.1.1 Seventy Five Percent (75%) of the members present in person or represented by proxy at the duly constituted meeting of the Association voted in favour thereof; and
 - 13.1.2 the Council of Plettenberg Bay or its assigns have approved thereof.
- 13.2 In the case of such a liquidation it will be the duty of the Excom or their duly authorised agent to liquidate the assets of the Association and to settle all obligations of the Association where after the remainder must be divided amongst all members in accordance with the number of Erven registered in the name of each such member. If the Excom or its authorised agent is not capable of finding any member within a period of twelve months of such liquidation, the portion allocated to such member will be paid into the guardian's fund with the Master of the High Court.

14. AMENDMENT OF THE CONSTITUTION

14.1 This constitution may be amended at a special General Meeting or an Annual General Meeting of the Association. Any such amendment must be approved by Seventy Five percent (75%) of the members present in person or represented by proxy.

14.2 Any amendment of the constitution must be lodged with the local authority.

15. INTERPRETATION/DISPUTES

15.1 Any dispute of whatever nature between members including a dispute regarding the interpretation of this constitution that may arise shall, subject to the terms of clause 15.4, be referred for judgement to a practising senior advocate of the Cape bar of at least FIVE (5) years standing as such. In the case of a dispute concerning clauses 7.9.9 and 7.9.10 it will be referred to an architect with at least FIVE (5) years practical experience as agreed between the parties to the dispute. Such advocate or architect will act as an expert and not as an arbitrator and will settle the matter. His judgement will be final and binding on all parties and will be capable of being enforced by a court of law.

15.2 If the parties cannot come to an agreement as to which senior advocates must be appointed to settle the dispute he shall be nominated by the President Cape Bar Council.

15.3 If the parties cannot come to an agreement as to the architect that must be appointed to settle the dispute he shall be nominated by the President of the Cape Provincial Institute of Architects.

15.4 Despite any conditions to the contrary contain herein the Excom will be entitled in its exclusive discretion to institute any action in a competent court of law or any legal aid whereto it may be entitled in terms of the conditions of this constitution including to recover arrears in levies.

16. LODGEMENT OF PLANS

All members will be obliged to lodge any building plan with the Excom for inspection and approval before such plan may be lodged with a local authority for inspection or approval irrespective whether such plan is for a new construction or amendments to the existing buildings or additions thereto. The immediate neighbours should be consulted in the process in addition to the approval from the consulting architect.

17. GENERAL

17.1 The registered owner shall not make any changes additions to or demolish any part of the exterior of the property including boundary walls, fences or decorative improvements etc. and will not be allowed to paint the outside of any wall or structure or to change the colour thereof without the written approval of the Excom.

17.2 A prospective buyer must sign the Constitution and the House Rules before the signing of the purchase-deed as recognition of the authority of these two documents.