

THE WATERKLOOF VILLAGE HOME OWNERS ASSOCIATION NPC
REGISTRATION NUMBER: 1995/000684/08

CONDUCT RULES
(Ratified at the 2020 AGM)

1. PREAMBLE

These Conduct Rules, including the Schedule of Transgressions & Penalties contained in the House Rules which are attached hereto marked Annexure A (jointly “**Rules**”), are issued by the Board under and in terms of the authority granted to them stipulated in Article 3.20 of the Memorandum of Incorporation (“**MOI**”). The Rules are deemed to be reasonable, binding on and shall apply equally to all Members without any form of discrimination.

Any act of commission or omission deemed a transgression of the MOI or Rules whether indicated as a transgression and/or carrying a penalty or not will be subject to the imposition of a penalty or other appropriate sanction in the discretion of the Board. Persistent transgressions may result in higher penalties and/or legal action at the discretion of the Board.

The Rules are considered to be neither restrictive, nor punitive, but rather as a judicious framework to safeguard and promote appropriate and fair interaction to the benefit of all living in the Development, being part of a community which shares a secure and high quality lifestyle through acceptable sets of Rules by which owners and occupiers of Erven in the Development may live together, reasonably and harmoniously, without interfering with one another’s enjoyment, to the benefit of all.

Any waiver, relaxation, extension of time, delay or failure (together “**Relaxation**”) by the Company in exercising any right under the Rules shall not be construed as a waiver of that right and shall not operate as an estoppel against the Company or affect the ability of the Company subsequently to exercising or enforcing any of its rights and the obligations of any Member, nor shall any Relaxation constitute a waiver of any such or other right. The waiver of any right under the Rules shall be binding on the Company only to the extent that the waiver has been reduced to writing and signed by the duly authorised representative(s) of the Company.

2. INTERPRETATIONS

Unless the context otherwise indicates, the words and phrases as used or referred to in these Rules shall bear the same meaning as ascribed to such words and phrases in the MOI.

In interpreting or construing these Rules, unless the context indicates otherwise:

- 2.1 any reference to the singular shall include the plural and vice versa; and
- 2.2 any reference to any gender shall include a reference to the other two genders; and
- 2.3 any reference to a natural person shall include a reference to a legal person/entity (whether incorporated or unincorporated) and *vice versa*; and
- 2.4 paragraph headings are for reference purposes only and shall not be taken into account in interpreting or construing the import or tenor of these Rules or that of any Article or provision.

In the event of any conflict between the provisions of these Rules and the provisions of the MOI, the provisions of the MOI shall prevail.

Where the consent of the Company is required for any purpose same shall:

- 2.5 unless the context expressly indicates otherwise refer to the prior written consent of the Company; and
- 2.6 not be unreasonably withheld and in the event of the refusal or withholding of such consent the onus shall be on the Member seeking same to prove that the refusal or withholding of the consent was unreasonable; and

2.7 be deemed to include a reference to any consent, approval or permission which may be required of the Company.

The terms, conditions, rights, promises, undertakings, covenants, restraints, obligations and provisions contained, conferred or imposed under these Rules (and all of which are for convenience referred to as “**provisions**”) are severable and divisible as to each provision, or part thereof, and should any provision be found to be invalid or unenforceable by a competent court, such a finding shall, subject to the order of such court, not affect the validity and/or enforceability of the remaining provisions or parts thereof.

These Rules replace and supersede all previous Rules issued and approved by the Company.

Subject to the provisions of the Rules on and after the commencement date, anything which was done under a provision of the Rules in effect on the day immediately preceding the day on which the Rules come into effect and which could be done under a corresponding provision of the Rules, is deemed to have been done under that corresponding provision.

The coming into effect of the Rules does not affect any rights, debts, obligations and/or any liabilities which existed on the day immediately preceding the day on which the Rules come into effect and such rights, debts, obligations and liabilities shall continue under the Rules on and after the commencement date and shall be deemed to have existed under, in terms of or by virtue of a corresponding provision of the Rules.

3. DEFINITIONS

Unless another meaning is indicated, the following words will have the indicated meaning:

WORDS	MEANING
Board	the board of Directors of the Company as appointed from time to time, inclusive of any individual director of the Board, duly authorized thereto.
The Company	The Waterkloof Village Home Owners Association NPC.
The Village	The Development as defined in the MOI.
The Act	The Companies Act, No. 71 of 2008, as amended.
Services	<i>Inter alia</i> , electricity, water, sanitation, sewerage, storm water, drainage, security, street lighting and gardens.
Open Areas	The Common Property defined as such in the MOI.
Roads	Streets, roads and footpaths in the Village and also the access road.

4. THE OBJECTS AND PURPOSE OF THE COMPANY

The purpose and business of the Company are to protect and further the interests of owners of erven in the Village and to create a secure lifestyle for all residents in the Development, arising out of or associated with ownership or occupation of the erven. It is part of the business to supply and render services, to upgrade and maintain roads, open areas and property belonging to the Company and, in order to ensure good neighbourliness amongst owners, to lay down and enforce standards and rules as regards *inter alia*, traffic, parking, security, visual appearance of villas and gardens, open areas, pets and animals, building operations and any conduct which may lead to disturbance or nuisance.

The income and property of the Company, wherever derived, shall solely be applied towards the promotion of its main object. No portion thereof shall be paid or transferred directly or indirectly, by way of dividend, bonus or otherwise howsoever, to the Members of the Company. Nothing herein contained shall prevent the payment in good faith of reasonable remuneration to any officer or servant of the Company or to any Member thereof, in return for any services actually rendered to the Company.

Upon its winding-up, deregistration, or dissolution, the assets of the Company remaining after the settlement of all its liabilities shall be given or transferred to some other Company or institution

having objects similar to its main objects. The Company or institution shall be determined by the Members of the Company at or before the time of its dissolution or, failing such determination, by the Court.

The Company, through its Board, shall be entitled to enforce compliance with its Memorandum of Incorporation in such manner as it may deem fit. This includes a system of fines or such other penalties as the Board may see fit to prescribe in terms of the Rules of the Company.

5. POWERS AND THE EXERCISE OF POWERS

5.1 The Company has all powers which may be necessary to achieve its objects and purpose. In order to attain that, inter alia, has the power conferred by the Act, provided that the execution of such power is in the interest of Members. The Company has the power to impose and collect levies, fines and interest authorised by the MOI and to enforce payment thereof by Members. The Company also has the power to lay down house rules and to enforce compliance of the Rules. The Company also has the power to purchase or rent or assume control over property.

5.2 The powers of the Company are exercised by the Board. Where the Board exercises a power authorised by these provisions, it is the Company doing so.

6 MEMBERSHIP

Membership of the Company is prescribed in Article 2.1 of the MOI.

6.1 Upon registration and transfer of an erf in the Deeds Office the former Member must notify the Company that transfer has taken place and must disclose the name and address of the new owner. The notice must be in writing and delivered at the Company's registered address.

6.2 The Company is not obliged, upon termination of Membership, to refund prepaid levies.

6.3 At termination of Membership the former Member has no claim against the Company in respect of the Company's assets or reserves.

6.4 Although a transferee of an erf becomes a Member on transfer, such Member is not entitled to the benefits of Membership before written notification has been received of the Member's name and address.

7 DUTIES OF MEMBERS

Every Member must:

7.1 to the best of his ability further the objects and interests of the Company;

7.2 comply with all house rules and all conduct rules;

7.3 duly pay all levies;

7.4 notify tenants and occupiers of his erf, and when necessary, guests and his employees of the house rules and ensure compliance by them of the house rules.

7.5 Members shall diligently and promptly comply with the obligations imposed in terms of these Rules and shall take all reasonable steps to ensure compliance therewith by their families, employees, agents, contractors, tenants, visitors and guests, and in the case of any Member who conducts any form of business or profession on or from an Erf or any part thereof, his customers and clients.

7.6 If despite written demand by the Company, a Member fails or refuses to comply with any aspect of the MOI and Rules or repair and maintain an Erf owned by that Member in a state of good repair and that failure materially prejudices the interests of the Company, its Members or occupiers of Erven generally, the Company may remedy the Member's failure and recover the reasonable cost of doing so from that Member; provided that in the case of an emergency, no demand or notice need be given to the Member concerned.

8 FINANCES AND LEVIES

- 8.1 The obligations of Board in respect of finances and levies are prescribed in Article 3.18 of the MOI.
- 8.2 Special Administrative Levies:
- 8.2.1 Upon the disposal by a Member or the estate of a Member of an Erf purchased the Member shall be liable for payment of a special administrative levy to the Company, subject to the further terms and conditions contained in this Article.
- 8.2.2 The special levy shall be equal to 1% (one per centum) of the gross selling price of the Erf (net of VAT, if applicable), and is payable upon registration of transfer of the Erf to the new purchaser.
- 8.2.3 For purposes of this Article, "disposal of an Erf" shall mean alienation thereof (or of a share therein) by whatever means, including private sale, donation, public auction or transfer of shares or Member's interest in a property owning Company or Close Corporation or interest in a Trust, but not the registration of a mortgage bond over the Erf.
- 8.2.4 Disposals to connected persons (as defined in the Income Tax Act, 58 of 1962), whether as a result of a sale, donation or inheritance, will not attract this special levy. However, it will be incumbent upon the Member to provide the Company with sufficient and reasonable proof of such connection.
- 8.2.5 Failing payment made upfront, the Company shall be entitled to insist upon the provision of an acceptable financial guarantee to be provided by the Member's conveyancer before consenting to transfer and the issuing of a clearance certificate.
- 8.2.6 The proceeds of all special administrative levies collected in terms of this Article 8.2 shall be deposited into a separate Capital Replacement Reserve Fund account under the control of the Board, which account shall at all times be open to inspection by all Members. The Fund may only be used for upgrading, replacement or major repair of infrastructure and improvements situated on the Common Property, Servitude Properties and the Rental Properties under control of the Company, whether by ownership or lease. The Fund may not be used for supplementing or subsidising of annual running expenses, which shall be covered by normal levies.
- 8.3 The Board may determine the rate of interest payable in respect of arrear levies or fines.
- 8.4 If the Board considers that an extraordinary expenditure originates because of a circumstance concerning an occurrence on a specific erf or the owner thereof, then the Board may debit that expenditure or a part thereof against that Member.
- 8.5 A Member who is in arrear with payment of due amounts shall not be entitled to the privileges of Membership. If a Member fails to pay on due date the Company may terminate services to the erf in question. If a Member disputes liability for an amount claimed from him, he must, under protest, pay the claimed amount and pursue such remedies as he may have. Failing such payment the Company is not obliged to continue to render services to such Member.

9. HOUSE RULES

- 9.1 Subject to a limitation or direction by a Member's meeting, the Board may prescribe house rules (attached hereto as annexure "A") as regards the conduct of Members or tenants or occupiers or their family members, guests, visitors, servants, workers or contractors in and in connection with the Development. Without derogating from the generality of this power, rules may be prescribed as regards to:
- 9.1.1 The visual appearance of Villas and gardens;
- 9.1.2 Conduct which may disturb neighbours;

- 9.1.3 Traffic, conduct by motorists and parking;
 - 9.1.4 Animals;
 - 9.1.5 The dam;
 - 9.1.6 The ecology;
 - 9.1.7 Use of and conduct on roads and public spaces;
 - 9.1.8 Use of Erven, and the Common Property, Servitude Properties and the Rental Properties;
 - 9.1.9 Fines and penalties;
 - 9.1.10 Security and formalities as regards access to the Development;
 - 9.1.11 Appearance of, alterations to Erven the Villas thereon and maintenance thereof and building operations.
- 9.2 If a rule is breached by a Member or a Member's tenant, or a Member of their families, guest, visitor, employee, worker or contractor or a person for the conduct of whom the Member is responsible or whose presence in the Development was brought about by the Member, then the Member shall be responsible to the Company as if the Member himself committed the breach in question. The Member shall also be liable for any levy, fine and/or penalty which may be imposed in terms of clause 9.3 below in respect of the breach.
- 9.3 In order to enforce the House Rules, the Board may, in their discretion:
- 9.3.1 Notify the Member responsible in writing what the infringement entails;
 - 9.3.2 Direct the Member to stop the infringement and to remedy the situation within a reasonable time specified in the written notice, alternatively, depending on the nature and severity of the infringement, direct the Member to stop the infringement and immediately levy the first fine provided for in clause 9.3.3 below;
 - 9.3.3 Should the Member or person for whose conduct the Member is responsible, fail to stop the infringement and rectify the situation within the specified time, alternatively, depending on the nature and severity of the infringement, if the Board has already issued a first fine in lieu of a notice, the Board may immediately impose a first or further fine on such Member on the basis prescribed in clause 15 of the Village House Rules and debit this fine against the Member's account;
 - 9.3.4 The Member will be notified in writing of any fine so levied and must be notified in writing that a further fine will be imposed if the breach is not remedied within a reasonable time as stipulated in the notice alternatively if the infringement in question occurs again;
 - 9.3.5 If the Member still fails to remedy the situation, alternatively if the infringement in question occurs again, a third or further fine may be imposed;
 - 9.3.6 A fine imposed by the Board shall be paid by the Member within a maximum of 30 days from the date of dispatch of the notification of the fine;
 - 9.3.7 Should a Member after receipt of a notice remedy the breach but thereafter again breach the same rule, a fine or a further fine may be imposed as if the situation had not been remedied;
 - 9.3.8 The warnings and/or fines which may be imposed by the Board are prescribed in clause 15 of the ~~Village House Rules~~ Village House Rules;
 - 9.3.9 Should the Board deem it necessary that the Company should itself remedy the breach, then the Board may do so and the reasonable costs incurred in doing so will

be for the account of the Member concerned.

9.3.10 The Board is also entitled to enforce the MOI, the Conduct Rules, the House Rules, the Aesthetical Rules and/or the Access Control Security Policy through legal action.

9.3.11 Should a Member dispute an act or a decision, warning issued, fine levied or ruling made by the Board, the dispute shall be resolved as prescribed in clause 21 of these Conduct Rules.

10. BOARD OF DIRECTORS

10.1 The affairs of the Company and the Development shall be managed by Board which shall be appointed as prescribed in Article 3 of the MOI.

10.2 Members of the Board are elected annually at the annual general members meeting with the minimum being 3 (three) and the maximum being 7 (seven) directors.

10.3 Retiring members of the Board may be re-elected.

10.4 In addition to the grounds for disqualification of a member of the Board mentioned in the Act, a member of the Board may be dismissed as a director by the other members of the Board if he does not carry out his commitments as a Director.

11. GENERAL MEMBERS MEETINGS

The procedures for and at general and special meetings of Members are prescribed in Article 2.5 of the MOI.

12. VOTING

Voting procedures at general and special meetings of Members are prescribed in Article 2.11 of the MOI.

13. REPORTS

An agenda, the financial statements, a budget and a report concerning the affairs of the Company must accompany the notice of the annual general meeting.

14. DOMICILIUM CITANDI ET EXECUTANDI

The Company chooses its *domicilium citandi et executandi* and address for notices and its registered address to be physical address of the auditors of the Company.

15. RULES AND GUIDELINES FOR HOME MAINTENANCE, REDEVELOPMENT (BUILDING ALTERATIONS), LANDSCAPING AND APPEARANCE OF VILLAS.

Notwithstanding that the Members hold title to their erven, it is recorded that the object and intent as regards development, decoration and appearance of the Village is that the villas should be of a homogeneous appearance in terms of the Rules and Guidelines for Home Maintenance, Redevelopment and Landscaping of the Company (attached hereto as annexure "B") and that the control in this regards vests in the Company. In order to achieve that purpose:

15.1 No Member may, without permission from the Board, effect any changes or extension to his villa or erect any building or structure or fit any attachment to it. He may not remove doors or windows or any exterior part of the building or change the colour of outside surfaces. He may, however, replace items on the exterior with items of the same appearance or colour.

15.2 If the Board is of the opinion that the appearance of any building or of any erf is out of harmony with the intended general appearance or unsightly or in need of maintenance, the Board may serve a notice on the Member requiring him to take steps, as are mentioned in the notice, to remedy the situation.

15.3 Should a Member fail to comply with the instructions, the Board may take such steps as may

be necessary to remedy the situation and to collect the costs incurred in doing so from the Member.

15.4 Villas may only be used as residences.

16. ELECTRICITY AND WATER

The Company may purchase electricity, water and other services in bulk and supply it to Members at such tariff as the Board may determine.

17. PERIMETER WALL, PALISADE AND ELECTRIC FENCE AROUND THE DEVELOPMENT ("Fence")

17.1 No Member may make an entrance or exit to or from the Development through the Fence.

17.2 Nobody may in any way whatsoever tamper with the Fence and no situation may be caused or be allowed which may jeopardise the security of the Development.

17.3 Where the Fence is situated on an Erf of a Member, the Company accepts responsibility for the maintenance of the palisade and electric fence portion of the Fence. All Members and tenants, upon receipt of reasonable notice, are obliged to allow the duly authorised contractors of the Board access to their Erven in order to fulfill the required maintenance obligation referred to in clause 17.2 above.

18. POWER CABLES, WATER MAINS AND SEWERAGE

The Company is responsible for the repair and maintenance of all underground power cables, water pipes and sewerage pipes should same belong to the Company and are situated on the Development.

19. REGISTER OF MEMBERS

A register with the names and addresses of Members are kept at the registered office of the Company.

20. GARAGES

Garages which form part of the Units may only be sold and let to or occupied by Members or their tenants.

21. DISPUTE RESOLUTION

21.1 Disputes between Members, tenants and/or occupants:

21.1.1 Should a dispute arise the parties involved shall endeavour in the first instance to settle such dispute and shall in such circumstances exhibit due tolerance and shall act reasonably in accordance with the principles of good neighbourliness;

21.1.2 Where such dispute cannot be resolved, should the disputant parties mutually agree, the dispute shall be referred to the Board, who shall act as mediators (and not arbitrators) should the Board have so resolved;

21.1.3 In the event of the matter being resolved to the satisfaction of the disputant parties as a result of the mediation of the Board, such settlement shall be final and binding upon the disputant parties;

21.1.4 Where the disputant parties have elected to submit their dispute for mediation to the Board, the disputant parties shall, in equal shares, pay the reasonable costs which shall be incurred by the Board in regard to mediation, and shall have been previously advised to the disputant parties;

21.1.5 Should the Board elect not to mediate with respect to the dispute the disputant parties shall be so informed and shall be entitled to resolve or otherwise dispose of the dispute

in such manner as they deem necessary, whether by way of legal proceedings or arbitration, it being expressly agreed that the Board shall not be a party to any such proceedings or arbitration and shall bear no responsibility in respect thereof;

21.2 Disputes between Members and the Company:

21.2.1 A Member who disputes that he has committed a breach of any obligation in terms of the MOI and/or the Rules, shall deliver a submission, in writing, to the Board within a period of not more than 14 (fourteen) days from the date of expiry of the period of demand contained in the notice delivered to the affected Member;

21.2.2 Failure to deliver such a submission shall be deemed that the Member has accepted the decision of the Company;

21.2.3 A meeting of the Board shall be convened as soon as reasonably possible after receipt of the submission;

21.2.4 For purposes of the dispute, the Board shall be entitled to delegate any of their powers and/or responsibilities to a committee consisting of not less than 2 (two) Board, a Member of senior management and the person appointed by the Company to undertake the administrative functions of the Company to which the penalty relates;

21.2.5 The proceedings at such a meeting of Board shall comply with the principles of natural justice;

21.2.6 The Member will be notified within a reasonable time in writing of the decision of the Board, which decision shall be final and binding on the Member.

21.3 Should the affected Member be aggrieved by the decision of the Board he shall, within 14 (fourteen) days of receipt of delivery of written notification of the Board's decision, refer such a dispute as provided for in the Community Scheme Ombud Services Act, 2011, failing which it shall be deemed that the Member has accepted the decision of the Board.

21.4 Neither the Company nor the affected Member shall be prevented from seeking any urgent or interim relief from a competent Court.

21.5 The provisions of this clause 21 dealing with disputes are severable from the remaining provisions of the MOI, House Rules and Conduct Rules and shall continue to apply in circumstances where the affected Member ceases to be a Member at any time after receipt of the written notices referred to in this clause 21.

21.6 The Company reserves the right to apply to any competent court to enforce any of the rights of the Company in terms of the MOI, House Rules and Conduct and all legal and other costs with regard to any legal proceedings instituted by the Company against any Member will be recoverable from the Member on an attorney and own client scale where such dispute is ruled in favour of the Company.