



## **GOVERNING RULES**

**CHAPMANS PEAK ESTATE HOME OWNERS ASSOCIATION**

## 1. DEFINITIONS AND INTERPRETATION

- 1.1 In these Governing Rules, unless the context otherwise indicates:
- 1.1.1 "**A&L Guidelines**" means the Architectural and Landscape guidelines, including the Master Landscaping Plan, approved by the Developer and the Municipality, which are binding on all Owners and a copy of which is available on the Website;
- 1.1.2 "**Alienate**" means the alienation of any Land Unit or Sectional Title Unit, whether by way of sale, exchange, donation, deed, intestacy, will, cession, assignment, lease, court order or insolvency, change in shareholding of a company or membership in a close corporation irrespective of whether such alienation is subject to a resolutive condition or a condition precedent, and alienation shall have a corresponding meaning;
- 1.1.3 "**ARC**" means the Architectural Review Committee appointed by the Developer during the Initial Period and thereafter by the Board from time to time, subject to compliance with the Constitution and the A&L Guidelines;
- 1.1.4 "**Association**" means the Chapmans Peak Estate Home Owners' Association NPC (registration number: 2024/235945/08) a non-profit company registered in terms of the Companies Act (Act No. 71 of 2008) and established in terms of section 61 of the Municipal Planning By-Law, 2015;
- 1.1.5 "**Board**" means the directors of the Association assembled as a Board, as more fully described in the Constitution;
- 1.1.6 "**Body Corporate**" means, in relation to a Scheme, the requisite Body Corporate established in terms of the Sectional Titles Act with regards to a Scheme;
- 1.1.7 "**C&O Manual**" means the Construction and Operational Manual as provided for in the Constitution and these Governing Rules and which is binding on all Owners and Contractors and a copy of which is available on the Website;
- 1.1.8 "**Common Property**" means any common property as defined in the STA unless such common property is subject to an exclusive right of use or, in the opinion of the Board, is such that from its position should not form part of the Common Property;
- 1.1.9 "**Communal Property**" means
- 1.1.9.1 all property owned by the Association, or to which the Association has acquired rights, whether by servitude or otherwise, including private open spaces, private streets or roads, buildings, infrastructure, Services, and amenities as required from time to time;
  - 1.1.9.2 any land which may be designated in any manner or in terms of any law or condition or authority for use communally by Members and/or their guests;
  - 1.1.9.3 any land designated by the Association for the purposes of communal property
  - 1.1.9.4 all access gates and entry points on the Property
- 1.1.10 "**Conditions of Approval**" the conditions of approval for the subdivision of the Property issued by the Municipality to the Developer, in respect of the Estate;

- 1.1.11 "**Constitution**" means the Memorandum of Incorporation of the Chapmans Peak Estate Home Owners Association NPC, as may be amended from time to time in terms of the provisions thereof subject to the approval of section 62 (4) of the MPBL, a copy of which is available on the Website;
- 1.1.12 "**Contractor**" means a building contractor, any other contractor, supplier, person or firm that undertakes a contract to provide materials or labour to perform a service or do a job for an Owner or a Resident, in accordance with the C&O Manual;
- 1.1.13 "**Developer**" means Amdec Residential Developments Proprietary Limited, (Registration Number 2003/001385/07) or its successors in title;
- 1.1.14 "**Development**" means the residential and associated infrastructure development to be established on the Property known as the Chapmans Peak Estate;
- 1.1.15 "**Dwelling**" means the construction of a building on an Erf suitable for occupation and/or use for residential purposes by natural persons, regardless of the size or extent of such building;
- 1.1.16 "**EMF Levy**" means the levy payable by Members to the Association to establish and maintain the Environmental Management Fund, as required in terms of the OEMP and such EMF levy is included in the amount of the Levy;
- 1.1.17 "**Environmental Officer**" means the environmental officer appointed by the Association to provide feedback to the Operations Manager on all environmental matters and has the responsibilities as required by the Association from time to time and in accordance with the OEMP;
- 1.1.18 "**Erf/Erven**" means a vacant erf or erf upon which there is 1 (one) completed Dwelling within the development and "Erven" shall mean more than one Erf;
- 1.1.19 "**Governing Rules**" means these governing and conduct rules for the Development established by the Developer and as implemented and amended, after the Initial Period, by the Board from time to time, a copy of which is available on the Website;
- 1.1.20 "**Initial Period**" means the period from the registration of the Constitution until the Developer is no longer the registered owner of any Erf or portion of the Property, provided that the Initial Period may end at any time prior to the said dates by the Developer giving notice to the Association that the Initial Period has ended;
- 1.1.21 "**Land Unit**" means an Erf or Erven arising from the subdivision of the Property;
- 1.1.22 "**Levy**" means the monthly levy payable by Owners to the Association in accordance with the Constitution which includes the EMF Levy and excludes the Stabilisation Levy;
- 1.1.23 "**Managing Agent**" means any person appointed by the Developer, during the Initial Period, and thereafter by the Board, to undertake any of the management functions of the Association, in terms of the Constitution;
- 1.1.24 "**Management and Conduct Rules**" means the Management and Conduct Rules that apply to a Scheme;
- 1.1.25 "**Master Landscaping Plan**" means the landscaping and planting list applicable to the Property in general as well as specifically to any and Land Units and Sectional Title Units, in respect of the Development, which plan forms part of the A&L Guidelines;

- 1.1.26 **"Member"** means a member of the Association as set out in the Constitution;
- 1.1.27 **"Memorandum"** means the Memorandum of Incorporation/Constitution of the Association, (as defined in clause 1.1.11) as amended from time to time;
- 1.1.28 **"MPBL"** means the City of Cape Town Municipal Planning By-Law, 2015;
- 1.1.29 **"Municipality "** means the municipality of the City of Cape Town;
- 1.1.30 **"Occupant"** means any person/s occupying an Erf, Land Unit, Sectional Title Unit or Dwelling or any improvement or structure thereon;
- 1.1.31 **"OEMP"** means the Operational Environment Management Plan, as required and approved by the Municipality and binding on the Association and all Members, to be enforced by the Association and a copy of which is available on the Website;
- 1.1.32 **"Operations Manager"** means the manager appointed by the Developer, during the Initial Period, and thereafter by the Association to manage all project contractors on the Development and to ensure that the requirements under the OEMP are met;
- 1.1.33 **"Owner"** means the registered Owner of a Sectional Title Unit or a Land Unit and as such a member of the Association;
- 1.1.34 **"Penalty"** means the monthly Penalty imposed by the Association on Owners if the construction of a Dwelling or Dwellings on an Erf/Erven is not commenced with and completed within the restrictive timelines provided in clause 5 below;
- 1.1.35 **"Property"** means the area of land comprising
- (i) Erf 704 (a portion of erf 552), Chapmans Peak, in the City of Cape Town, Province of the Western Cape; or
  - (ii) any subsequent sub-divisions or consolidations thereof;
- 1.1.36 **"Private Open Spaces"** means all the private open spaces, being erven 732, 733, 735, 736, 737 and 738, which private open spaces, are or will be registered in the name of the Association in the Cape Town Deeds Registry and are the responsibility of the Association;
- 1.1.37 **"Private Roads"** means the Private Roads, being erf 738, that is or will be transferred in favour of the Association in the Cape Town Deeds Registry, and will, as such, be or become the responsibility of the Association;
- 1.1.38 **"Purchaser"** means any person or entity that enters into an agreement of sale with the Owner of a Land Sectional Title Unit;
- 1.1.39 **"Residential"** means, in relation to land use, permitted for residential use in terms of the relevant town-planning scheme;
- 1.1.40 **"Resident"** means any person who is resident at the Development and includes Owners, Occupants and members of their family, their guests and tenants;

- 1.1.41 "**Scheme**" means an Erf with the maximum number of (2) two completed Dwellings upon which a scheme must be registered under the Sectional Titles Act;
- 1.1.42 "**Security Protocol**" means the security protocol, governing all aspects of the security of the Development, Owners and Residents, which protocol will be implemented and approved by the Association from time to time;
- 1.1.43 "**Sectional Titles Act**" means the Sectional Titles Act No. 95 of 1986, as amended or the Sectional Title Management Act, No. 8 of 2011, as amended (as the case may be);
- 1.1.44 "**Sectional Title Unit**" means a Dwelling which is a sectional title unit (including its exclusive use area), as defined in the Sectional Titles Act;
- 1.1.45 "**Stabilisation Levy**" means the stabilisation levy payable by Members to the Association in accordance with the Constitution;
- 1.1.46 "**Transfer Date**" means the date upon which the Land Sectional Title Unit is transferred to an Owner;
- 1.1.47 "**Vehicle**" means any form of conveyance, whether self-propelled or drawn by machine, animal or otherwise;
- 1.1.48 "**Website**" means [www.chapmanspeakestate.co.za](http://www.chapmanspeakestate.co.za);
- 1.1.49 "**Wetland**" means the wetland area situated on Erven 708 – 712 and 732, or parts thereof;
- 1.1.50 "**Works**" means any landscaping, construction, erection or alteration of, or addition to, any Dwelling, or Land Sectional Title Unit on the Development; and
- 1.2 Any reference to natural persons includes artificial persons and *vice versa*.
- 1.3 Any reference to a gender includes the other genders (including neuter).
- 1.4 Any reference to the singular includes the plural and *vice versa*.
- 1.5 The headings in these Governing Rules have been inserted for convenience only and shall not be taken into account in its interpretation.
- 1.6 Words and expressions defined in any sub-clause shall, for the purpose of the clause of which that sub-clause form part, bear the meaning assigned to such words and expressions in such sub-clause.
- 1.7 No provision in these Governing Rules or any related document shall be construed against or interpreted to the disadvantage of any party hereto by reason of such party having or being deemed to have structured or drafted such provision.
- 1.8 These Governing Rules shall be governed by and construed and interpreted in accordance with the laws of the Republic of South Africa.

## **2 GOVERNING RULES OF THE ASSOCIATION AND CODES OF CONDUCT**

- 2.1 Subject to the provisions of the Constitution and to any directives given by the Association and to any requirements and/or conditions imposed by the Municipality and/or the Developer and/or any other statutory body,

the Board may make rules and/or establish codes of conduct, and may vary or modify the same from time to time, in connection with:

- 2.1.1 the installation, operation and maintenance of irrigation in the Communal Property;
  - 2.1.2 the determination, implementation and control of security measures as will be provided for in the Security Protocol;
  - 2.1.3 the control of the building operations and the conduct of the Contractors in terms of the C&O Manual, including any sub-contractors or agents;
  - 2.1.4 the control and conduct of persons for the prevention of nuisance of any nature to any Owner/Resident;
  - 2.1.5 the control and conduct of persons using the Communal Property;
  - 2.1.6 the use of roads, infrastructure, services, amenities and facilities situated on the Communal Property including the right to charge a reasonable fee for the use of the amenities and facilities; and
  - 2.1.7 the furtherance and promotion of any of the objects of the Association, for the better management of the affairs of the Association and for the advancement and protection of the interests of the Members, Owners and Occupants.
- 2.2 Subject to any restrictions imposed or directives given at a General Meeting of the Association, the Board may (but shall not be obliged to) from time to time, make rules, and amend or modify those rules, in relation to, *inter alia*, the following –
- 2.2.1 the management and control of the Development;
  - 2.2.2 the furtherance and promotion of any of the objects of the Association including the promotion of better management of the affairs of the Association and the advancement of the interests of the Members;
  - 2.2.3 the use, occupation and enjoyment of the Communal Property, or any parts thereof;
  - 2.2.4 the preservation of the natural environment within the Development in accordance with the OEMP;
  - 2.2.5 pedestrian and vehicular traffic including parking within the Development;
  - 2.2.6 the restriction of the operation of any business within the Development;
  - 2.2.7 the conduct of any Owner, Occupant, Resident or visitor to the Development;
  - 2.2.8 the nature, content and design of garden and landscaped areas within the Development in accordance with the A&L Guidelines and OEMP;
  - 2.2.9 the admission of any person within the Development, including the conditions upon which persons may enter the Development, and the eviction of any person who is not entitled to be present within the Development under circumstances of probable cause;
  - 2.2.10 the storage of flammable and other harmful substances;

- 2.2.11 the enforcement of any rules made in terms of these Governing Rules and the adjudication of disputes relating to the application and/or interpretation of any of these Governing Rules; and
- 2.2.12 the introduction and enforcement of fines and other penalties that may be payable by any Member/Owner, Occupant or visitor for contravening or failing to comply with any of the provisions of this Governing Rules, Constitution, A&L Guidelines, C&O Manual or any rules and regulations made thereunder.
- 2.3 The Members shall at all times remain bound by the provisions of the Constitution, the Governing Rules, the OEMP, the A&L Guidelines and the C&O Manual and will be required to ensure and procure compliance therewith by such Occupant. The Members shall be liable for the acts or omissions of all persons occupying his/her Land Unit or Sectional Title Unit whether lawfully or unlawfully including without limitation guests, employees, invitees, contractors, sub-contractors, Occupants and/or agents.
- 2.4 These Governing Rules shall be binding upon all Members, Owners, Occupants, Residents and visitors to the Development;
- 2.5 In the event of any breach of the Constitution, the Governing Rules, the A&L Guidelines, the OEMP and/or the C&O Manual and any additional rules made and/or codes of conduct established by the Board in terms of these Governing Rules by an Owner or an Owner's employees, representatives, tenants, any member of his household and/or any other person related to the Owner, guests and/or invitees, such breach shall be deemed to have been committed by the Owner himself and the Owner shall be liable for any sanctions imposed by the Board as a consequence of this breach. The Board shall nevertheless be entitled to take or cause to be taken such steps against the person actually committing the breach as they in their sole and absolute discretion deem fit.
- 2.6 These Governing Rules may be revised and amended on a regular basis by the Developer during the Initial Period without approval by the Association or the Municipality and thereafter by the Board and shall include any changes or amendments made in the preceding period. The Governing Rules will be available on the Website.

#### **Conflict of existing practice with new rules**

- 2.7 Any existing practice(s) in conflict with an amended/new Governing Rule ("**New Governing Rule**") shall cease immediately, unless resolved as follows:
- 2.7.1 where a specific conflict arises between a New Governing Rule and an existing practice of long standing and a Member or Owner feels legitimately aggrieved, the Developer during the Initial Period, and thereafter the Board may on written request, or in its own right, allow the partial or total relaxation of the New Governing Rule, to permit such existing practice to remain, or to be suitably adjusted and reconciled. Any decision resulting from such consideration shall be entirely in the Developer's sole and absolute discretion during the Initial Period, and thereafter in the Board's sole and absolute discretion, and shall be final and binding on all parties involved in the dispute.

### **3 APPROVAL OF PLANS FOR BUILDINGS AND STRUCTURES**

- 3.1 For the purposes of maintaining the high standard of the appearance and design of the Development and of ensuring an attractive and harmonious appearance of the Development, the A&L Guidelines and C&O Manual have been implemented relating to the appearance, design, construction, and landscape requirements applicable to the Land Unit or the Sectional Title Units and the Development.
- 3.2 The A&L Guidelines and C&O Manual shall constitute an integral part of these Governing Rules and may be amended from time to time by the Developer, for the duration of the Initial Period, and thereafter, by the Board,

provided they remain true to the originally approved development vision for the Development, as approved by the Municipality.

- 3.3 All Works shall be carried out by Owners and Contractors in accordance with the A&L Guidelines and C&O Manual at all times, to which an Owner and its Contractor, automatically upon transfer of a Land Unit or a Sectional Title Unit, bind themselves jointly and severally in favour of the Association for the fulfilment of the obligations contained therein.

#### **4 DAMAGE TO INFRASTRUCTURE AND ROADS**

- 4.1 The Association wishes to ensure that all Works in the Development are undertaken so as to cause the least possible damage to the infrastructure of the Development (including but not limited to damage to the road surfaces caused by construction vehicles) and that, where such damage occurs, provision is made for reinstatement.
- 4.2 To attain the aforesaid objectives, an Owner and its Contractor bind themselves jointly and severally in favour of the Association for the fulfilment of the obligations contained herein and as contained in the A&L Guidelines and the C&O Manual.
- 4.3 The cost of any damage to the infrastructure of the Development attributable to the Contractor shall be quantified by a competent professional appointed by the Developer, during the Initial Period, and thereafter by the Board and the amount so determined shall be final and binding on the Contractor.
- 4.4 If the Association alleges that the conduct of the Contractor, whether by way of commission or omission, is the cause of any damage to any portion of the infrastructure of the Development, then the Owner and Contractor shall be deemed to be liable therefore, jointly and severally, unless they are able to prove the contrary.
- 4.5 If the Owner / Contractor fails to dispute any claim made in terms of the foregoing within 10 (ten) days of receiving notice thereof, they shall be liable for payment of the cost arising there from as determined by the competent professional appointed by the Developer during the Initial Period and thereafter by the Board.
- 4.6 If a claim is disputed, the said dispute shall be referred to a competent professional appointed by the Developer during the Initial Period, and thereafter by the Board, for resolution. The competent professional shall act as an expert and not an arbitrator, and his decision shall be final and binding upon the parties.
- 4.7 If a claim is made against an Owner or Contractor, the Association shall, in addition to the rights aforementioned, be entitled to recover from the Owner or Contractor who shall be liable to the Association for payment of all the Associations legal costs incurred on the scale as between attorney and own client.

#### **5 RESTRICTIVE TIMELINES APPLICABLE TO BUILDING ACTIVITIES**

- 5.1 Restrictive timelines to commence with the construction of a Dwelling and the time period for the completion thereof apply in the Development. The restrictive timelines will not apply to the Developer.
- 5.2 Every Owner, save for the Developer, must proceed with the construction of a dwelling or dwellings (as the case may be) on an Erf in accordance with the below restrictive timelines:
- 5.2.1 No later than 6 (six) months from the Transfer Date, the Owner shall have building plans approved by the Association and ARC;
- 5.2.2 No later than 12 (twelve) months from the Transfer Date, the Owner shall have the building plans approved by the Municipality;



- 5.2.3 No later than 18 (eighteen) months from the Transfer Date, the Owner shall have commenced with construction of a dwelling or dwellings on the Erf; and
- 5.2.4 No later than 36 (thirty six) months from the Transfer Date, the Owner will have completed the building of a dwelling or dwellings on the Erf, subject to compliance with the C&O Manual.
- 5.3 The Construction of the Dwelling or Dwellings on an Erf will always be at the risk of the Owner and subject to the restrictive timelines in clause 5.2 above and the approval of the Municipality as well as compliance with the necessary rules, processes and regulations contained in the Constitution, the A&L Guidelines, the OEMP, the C&O Manual, the Conditions of Approval, any statutes and the MPBL.
- 5.4 In the event that an Owner fails to complete construction within the period provided for in 5.2 above and in addition to the applicable Penalty which the Association may levy against the Owner in terms of clause 5.6 below, the Developer shall be entitled (but not obliged) to:
- 5.4.1 repurchase the Erf from the Owner for an amount equal to the original purchase price paid by the Owner in terms of the agreement of sale with the Developer (inclusive of VAT); or
- 5.4.2 sell the Erf to any third party for an amount not less than the original purchase price paid by the Owner in terms of the said agreement of sale with the Developer;
- 5.4.3 the Owner hereby irrevocably and *in rem suam* appoints the Developer as his duly authorised agent for purposes of such sale, as set out in clauses 5.4.1 and 5.4.2; and
- 5.4.4 the Stabilisation Levy will not be applicable and will not be payable in terms of the sale in clause 5.4.1 and 5.4.2.
- 5.5 This reversionary right in favour of the Developer will be contained in the deed of transfer of the Erf and will only be capable of removal at the earlier of the date of completion of the building of a Dwelling or Dwellings on the Erf or the date upon which the Developer provides its written consent to such removal.
- 5.6 It is recorded that:
- 5.6.1 the restrictive timelines shall not be interrupted by the sale and transfer of an Erf to a third-party purchaser and will continue regardless of the sale and transfer which will require the third-party purchaser to commence and complete constructions within the time periods set out in clause 5.2 above, unless extended by the Developer during the Initial Period and thereafter by the Board;
- 5.6.2 should the restrictive timelines not be adhered to, the Owner of the Erf shall be liable to pay to the Association, in addition to the Levy and Stabilisation Levy charged by the Association in terms of the Constitution, the Penalty for each month that:
- 5.6.2.1 commencement with the construction of the Dwelling or Dwellings is delayed; or
- 5.6.2.2 completion of construction of the Dwelling or Dwellings is delayed.
- 5.6.3 The Penalty will be calculated at double the monthly Levy payable by the Owner to the Association, in terms of clause 6.3 of the Constitution. For the avoidance of doubt, the Owner will be liable to pay the Association the Penalty for every month that they remain non-compliant in terms of the restrictive timelines set out in clause 5.2 above, in addition to the monthly Levy and the Stabilisation Levy, set out in clauses 6.3 to 6.5 of the Constitution.

- 5.6.4 The Penalty will be immediately due and payable by the Owner to the Association on written demand therefor by the Association and the Association will be entitled to withhold its consent to transfer of an Erf if the Owner has failed to pay any Penalty levied by the Association.

## **6 RESTRICTION ON TRANSFER**

- 6.1 An Owner may not proceed to Alienate or transfer a Land Unit or Sectional Title Unit without the prior written consent of the Association or the Developer, in accordance with the provisions relating thereto as contained in the Constitution.

## **7 SELLING OF LAND UNITS OR SECTIONAL TITLE UNITS BY ESTATE AGENTS**

- 7.1 Any estate agent/agency performing any services within the Estate shall be obliged to apply to the Association to be approved and registered in accordance with the Estate Agency Accreditation Process ("EAAP") and shall not be entitled to enter the Development for the purpose of the marketing and sale of any Land Unit or Sectional Title Unit until such estate agent/agency has been notified by the Association in writing that his/her/its application has been approved.
- 7.2 The Developer, during the Initial Period and the Association, after the Initial Period, will determine and implement the EAAP and publish same to all Owners on the Development and may be amended accordingly by the Developer or the Association, from time to time, as the need arises and in accordance with the Constitution, Security Protocol and these Governing Rules.

## **8 BODY CORPORATES**

- 8.1 Each Owner of a Sectional Title Unit will be a member of the Body Corporate and a member of the Association.
- 8.2 Each member of a Body Corporate will be subject to the provisions of the Constitution and these Governing Rules and the Management and Conduct Rules.
- 8.3 If the members of a Body Corporate elect to create their own Management and Conduct Rules, in the instance of any discrepancy between the Constitution, these Governing Rules, the Management and Conduct Rules or any other document or approval as referred to in the Constitution, including any guidelines and/or directives issued by the Developer, during the Initial Period, or thereafter, by the Board, the provisions of the Constitution, these Governing Rules, or any other document or approval as referred to in the Constitution, including any guidelines and/or directives issued by the Developer or the Board (as the case may be), will prevail, and the Management and Conduct Rules will be deemed to have been amended accordingly to accommodate the relevant discrepancy.

## **9 SECURITY**

- 9.1 One of the primary objectives of the Association is to provide security measures to the Development.
- 9.2 The Association will, from time to time, issue Security Protocols regarding security on the Development, which Security Protocols are always to be adhered to by all Residents. All persons entering the Development, whether authorised to do so by an Owner, Occupant or a Resident, shall be subject to applicable Security Protocol.
- 9.3 Security is considered a shared responsibility. Owners and Residents are required to forthwith report any unlawful or suspicious event or occurrence, in the Development to the Association and are responsible for their own security measures related to their Land Unit or Sectional Title Unit.

- 9.4 Access and egress to and from the Development is controlled by the Association. To the extent that an Owner, Occupant or Resident may authorise any persons or vehicles to access the Development, such access shall always be subject to the discretion of the Association who shall be entitled to refuse such access, should it have reasonable grounds to do so.
- 9.5 Owners will be responsible for the actions and behaviour of any Residents, persons employed by such Residents or any persons visiting a Land Unit or Sectional Title Unit and ensure that such persons comply with these Governing Rules as well as for any visitors, staff or any other persons who an Owner or Resident, as the case may be, may authorise, in terms of the Security Protocol, to have access to the Development and in particular to ensure compliance by those persons with these Governing Rules.
- 9.6 All persons employed by any Owner or Resident and working within the Development must be registered with the Association in terms of the applicable Security Protocol. The Security Protocol may make special provision for the management of casual employees within the Development.
- 9.7 It is recorded that the Developer will be entitled to appoint a security company during the Initial Period on terms and conditions to be determined by the Developer, in its sole discretion and thereafter by the Board.
- 9.8 The Association may only utilize the services of 1 (One) security company for the whole of the Development and the security services must always be rendered by such security company at market related prices.
- 9.9 It is furthermore recorded that the Association, the Board and the Developer, or its agents, will not accept any responsibility or liability in respect of any damages caused by the security company and/or any of its employees or Vehicles utilized.
- 9.10 Owners, Residents, Occupants and/or visitors are to note that all security systems serve as a deterrent and detection function and are not guaranteed to prevent a determined attempt at intrusion into the Development.
- 9.11 The Developer, the Association and its Board shall not be liable for any injury, loss or damage to any person or property arising from any causes whatsoever including, without limitation to, the negligence of any security personnel, the failure of any security measures or the intentional acts of any agents, employees or appointees.

## **10 TELECOMMUNICATION SERVICES**

- 10.1 It is recorded that the Developer will be entitled to appoint a service provider in respect of all telephone or telecommunication services, including but not limited to, optic fibre cables, VOIP systems, any wireless systems, etc. The appointment by the Developer of the service provider, will be binding upon the Association, Members and/or Owners.
- 10.2 The initial agreement will be concluded between the Developer and the service provider at a fee, payable by each Owner on or before the date of registration of transfer of any Land Unit or Sectional Title Unit in favour of an Owner. Any such fee will be market related.
- 10.3 The Developer, during the Initial Period and thereafter the Board, will conclude a further service level agreement pertaining to the maintenance of the telecommunication services.
- 10.4 No Owner or Occupant may be in possession of or operate or use any illegal trans-receiving devices and or radio equipment in addition to any other legal equipment which may interfere with the provision of the telecommunication services. The decision of the Developer, during the Initial Period and thereafter, of the Board, will be final and binding on any Member, Owner or Occupant.

- 10.5 Except for any deliberate act or gross negligence on the part of service provider, its servants or agents, and except as otherwise expressly provided to the contrary in the agreement to be concluded with the service provider, such service provider shall not be liable to the Association or any third party for any loss to the Association or any third party for any loss or damage of whatsoever nature and/or howsoever arising (including consequential or incidental loss or damage which shall include but shall not be limited to loss of property or of profit, business, goodwill, revenue, data or anticipated savings) or for any costs, claims or demands of any nature whether asserted against the service provider or against the Association by any party arising directly or indirectly out of the telecommunication system and/or services, their use, access, withdrawal or suspension or out of any information or materials provided or not provided, as the case may be.
- 10.6 The Association, the Developer and the service provider indemnify each other and hold each other harmless against any claim by any third party arising directly or indirectly out of the implementation of the agreement entered into or access to or use of the telecommunication system and/or services or information obtained through the use thereof or in respect of any matter for which liability of the service provider is excluded in terms of the agreement entered into with it.

## **11 SERVICE SERVITUDES**

- 11.1 All Owners are aware that there are certain services and right of way servitudes which are or will be registered against the Property and certain Erven in accordance with the deed of transfer of the Property and the general plan in relation thereto as well as the Conditions of Approval and the OEMP, which service servitudes include (but are not limited to): stormwater and sewerage servitudes, environmental servitudes, right of way servitudes and electrical servitudes. All the above servitudes include the unrestricted right of access over the Property and any Land Unit or Sectional Title Unit in favour of the holder of any of these servitudes. It is the responsibility of the Owner to ensure that they are aware of such servitudes on their Land Unit or Sectional Title Unit.
- 11.2 The Developer, during the Initial Period, or the Association and all service providers as approved by the Board or the Developer, during the Initial Period, will at all times have free and unencumbered access to all registered servitudes affecting the Property or any Land Unit or Sectional Title Unit, subject at all times to the conditions contained in such Notarial Deeds of Servitude in respect of which such servitudes were registered.
- 11.3 The Association is responsible for the maintenance and upkeep of the relevant servitude areas which are registered in their favour and in accordance with the Conditions of Approval, the OEMP and/or the conditions contained in the Notarial Deeds of Servitudes for such servitudes.
- 11.4 All Owners are aware that the Municipality may install further infrastructure in the servitude areas.

## **12 WETLAND PROTECTION**

- 12.1 The Association is obliged to attend to the protection and maintenance of the Wetland in accordance with the provisions of the OEMP and the Conditionals of Approval as well as all other conditions and/or obligations imposed on it by the Municipality.
- 12.2 The Association will collect the EMF Levy from the Owners, which amount will be included in the Levy, in order to discharge its obligations in terms thereof under the OEMP, in accordance with the Constitution.
- 12.3 Underground and surface water sources should not be polluted during the proposed development and operation of the OEMP.
- 12.4 The Association is to comply at all times with the provisions of the OEMP and appoint an Environmental Office to oversee implementation of the OEMP and ensure that the Association remains compliant with the OEMP at all times.

### **13 PET CONTROL**

- 13.1 All Members, Residents and Occupants shall comply with all municipal by-laws as may exist in relation to the ownership or keeping of any domestic pets, subject to the Association issuing any directives they deem necessary in relation to any domestic pet as provided for in the Constitution and/or these Governing Rules should they deem it necessary.
- 13.2 No Resident shall be entitled to breed any animals on the Development.
- 13.3 Should any person in control of any animal on the Development fail to comply with the provisions of this Governing Rule 13, the Owner of the Land Unit or Sectional Title Unit in which the person who owns or controls the relevant animal resides or visits will, in addition to such other remedies as may be available to the Association in law, be subject to a fine as determined by the Board from time to time.
- 13.4 The following rules are imposed by the Association:
- 13.4.1.1 All pets must be registered and approved by the Association, on application by the Owner, prior to occupation of the Land Unit or Sectional Title Unit by the Owner;
  - 13.4.1.2 A maximum number of two dogs and/or cats may be kept by an Owner on each Land Unit or Sectional Title Unit;
  - 13.4.1.3 All dogs must be adequately contained in an area within a Land Unit or Sectional Title Unit and when outside the Owner's Land Unit or Sectional Title Unit, dogs must be on a leash and under the control of a responsible person. Dogs are not allowed to run loose on any of the Development;
  - 13.4.1.4 Owners of dogs must ensure that their animals are not permitted to bark incessantly and unnecessarily and thereby cause any disturbance to neighbouring Sectional Title Units;
  - 13.4.1.5 Fouling by dogs on Communal Property, on any road or other Land Unit or Sectional Title Unit must be removed immediately by the responsible person;
  - 13.4.1.6 No visitor may bring any pet onto the Development;
  - 13.4.1.7 All dogs and cats must be spayed or neutered as the case may be; and
  - 13.4.1.8 No horses, reptiles, poultry, livestock, wild animals or snakes or any other animal or reptile are permitted on the Development at any time.

### **14 TRAFFIC**

- 14.1 The roads on the Development, despite being "private", are in fact used by the public. Because of this, and for the safety of all road users, it is necessary to apply the provisions of the Road Traffic Act 93 of 1996 (as amended). The roads are for the use of all, which places extra responsibility and awareness on all who use these roads and particularly on all adults and especially parents who need to educate and control their children. The movement and control of traffic and pedestrians are subject to these Governing Rules and such further directives as may be made by the Association with regard thereto.
- 14.3 All private roads in the Development are under the responsibility of the Association and will be transferred to the Association by the Developer, in accordance with the Conditions of Approval.

- 14.4 No person shall drive or ride any Vehicle within the Development in such a manner that would constitute an offence under any traffic ordinance.
- 14.5 All Vehicles shall be in a good and roadworthy condition. Without limiting the generality of the foregoing, Vehicles emitting excessive noise, smoke and/or oil are prohibited.
- 14.6 Motorised vehicles shall be driven on roads and driveways only, and only by persons who hold valid current international or South African drivers' licences.
- 14.7 The Association may by means of appropriate signage give directions as to the use of roads or any portion of roads on the Development. Failure by any person to obey such signage shall constitute a contravention of these Governing Rules and a fine will be issued.
- 14.8 The Association reserves the right to introduce any traffic calming measures, including but not limited to, speed-humps and golf cart/pedestrian-crossings, that they in their sole discretion deem necessary from time to time.
- 14.9 Speed Limit:
- 14.9.1 A maximum speed limit of 30 km/h (thirty kilometres per hour) shall apply, provided that lower speed limits may be imposed by the Association where this is deemed necessary;
- 14.9.2 Failure by any person to obey such speed limit shall constitute a contravention of these Governing Rules and fines will imposed by the Association from time to time;
- 14.9.3 Subject to the provisions of the Criminal Procedure Act, No. 51 of 1977, the Association reserves the right to initiate criminal proceedings against any person, in circumstances deemed appropriate; and
- 14.9.4 The modes and methods of speed measuring shall be in the sole discretion of the Board, and such measured speed shall be conclusive proof of the speed driven by any person.
- 14.10 Parking
- 14.10.1 All parking measures, rules and regulations in respect of a Land Unit, Sectional Title Unit, Communal Property and the Development in general are governed by the provisions of the C&O Manual to which all Owners, Occupants, Residents and Contractors are bound to abide by at all times.
- 14.10.2 There are clearly marked restricted areas for emergency vehicles which must only be used for that purpose and which entrances must be kept clear;
- 14.10.3 Should a Vehicle be parked or abandoned in breach of the Governing Rules or Constitution, the Association may impose the applicable warning / fine on the owner of, or on the person responsible for, the Vehicle; and
- 14.10.4 Due to the private roads of the Development, foot scooters, motorised scooters, skateboards, roller blades, roller skates are not to be driven/used on the Development's roads.

## **15 GENERAL RULES**

- 15.1 The A&L Guidelines may only be amended by the Developer during the Initial Period. After the Initial Period, the A&L Guidelines may only be amended by the Members by a majority of not less than 75% (seventy five percent) of the votes of the Members at a general meeting called for that purpose. Any amendment to the A&L Guidelines

is subject to the approval thereof by the Municipality, if required under the Conditions of Approval and/or the MPBL.

- 15.2 The flying of drones, or any other type of unmanned aircraft, is strictly prohibited in (and over) the Development. Should there be a specific requirement to fly a drone on or over the Development, an application must be submitted to the Association in writing stating the reasons for the request furnishing confirmation that all Civil Aviation Authority requirements have been met.
- 15.3 The responsibility for repainting and general maintenance of the Dwellings lies with the individual owners. The Association is authorized to notify any individual if their property requires maintenance or repainting due to its appearance being displeasing. A reasonable time frame will be provided for the owners to address these issues.
- 15.4 If the Owner fails to address the written request within the reasonable time frame, the Association is entitled to obtain quotations on behalf of the Owner. After a period of 30 days with no response, the Association is authorized to proceed with the quotations and add the cost to the Owner's Levy account. The Owner will be responsible for the cost and any associated expenses incurred by the Association.
- 15.5 It is the responsibility of Owners to maintain their Land Units or Sectional Title Units (including the Common Property in respect of a Scheme). If an Owner neglects or fails to keep their Land Unit or Sectional Title Unit (including the Common Property in respect of a Scheme) clean, neat and maintained, the Association is entitled to take the necessary action on their behalf to remedy the failure of upkeep of the said Land Unit or Sectional Title Unit at the owner's cost. The expenses incurred by the Association for the upkeep of any vacant land, on behalf of the Owner, will be added to the Owner's Levy account for payment.

## **16 FINES/PENALTIES**

- 16.1 Warnings and fines will be issued by the Board if an Owner is in breach of the Governing Rules, Constitution, A&L Guidelines, C&O Manual or OEMP. Fines are to be paid into the account of the Association within 7 (seven) days from date of being issued, unless otherwise stated in such Governing Rules, Constitution, A&L Guidelines, C&O Manual or OEMP. Such fines may be issued on a once-off basis or a continual basis, depending on the nature of the infringement and at the discretion of the Board.
- 16.2 If an Owner feels the fine is unwarranted, they may appeal in writing to the Board but the fine must be paid in the meantime.
- 16.3 The Association shall investigate (in such manner as it deems fit) written complaints received from Residents relating to the behaviour and/or conduct of other Residents and persons on or about the Development and shall take such steps with regard thereto as it may deem fit. The Association shall be entitled on its own initiative to investigate the conduct of any person or persons and to take such action as it may deem fit, whether or not complaints are received.

## **17 ENFORCEMENT OF THE GOVERNING RULES**

- 17.1 As recorded in clause 2.4.15 of the Constitution, for purposes of the enforcement of any of these Governing Rules, the Board may take or cause to be taken such steps as they may consider necessary to remedy the breach of the Governing Rule of which an Owner (including agents), Resident or Contractor may be guilty, and the Association may take such action, including court proceedings, as it may deem fit.
- 17.2 To the extent that an Owner's Contractor contravenes these or any other rules as may be prescribed by the Association, the Association shall be entitled, forthwith, to deny access by such Contractor to the Development and to suspend all building activities on the relevant Erf and the Owner hereby indemnifies the Association and

the Developer against any losses or damages including consequential damages, as may be sustained as a result thereof.

- 17.3 Notwithstanding the foregoing, the Board may, in the name of the Association, enforce the provisions of any Governing Rules by proceedings in a court of competent jurisdiction and for this purpose may appoint such attorneys and counsel as they may deem fit.

**18 INDEMNITY**

- 18.1 Each Resident/Owner/Contractor agrees to indemnify and hold harmless and free the Association, the Board and the Developer from any and all claims of whatsoever cause or nature which may arise on his behalf, on behalf of its spouse, children, whether minor or adult, visitors, contractors or relatives and/or any person accompanying them and/or using the Development's facilities, whether as their invitee or otherwise, who suffer any damages, including but not limited to personal injury or death, loss of support or any other loss whilst on the Development (which includes any dams, channels, stormwater infrastructure, pylons and wetlands situated within the Development) and arising from any cause whatsoever (including but not limited to any act or omission, or from the negligence on the part of the Association, the Board or the Developer).