

**CONSTITUTION**

OF

**THE NEWLANDS ESTATE OWNERS' ASSOCIATION**

**1. NAME**

The name of the association shall be "The Newlands Estate Owners' Association", which is an association established in terms of Section 29 of the Stellenbosch Municipality Land Use Planning By-law.

**2. DEFINITIONS**

2.1 In this Constitution, unless the context indicates the contrary:

2.1.1 "the Association" shall mean The Newlands Estate Owners' Association;

2.1.2 "the Developer" shall mean Annandale Road Properties Proprietary Limited, registration number 2009/014097/07, or its successors-in-title;

2.1.3 "the Development Site" shall mean Erven 252 & 298 Raithby, or a consolidated erf including these two erven, in the Stellenbosch Municipality, Stellenbosch Division, Western Cape Province;"the Developer" shall mean Annandale Road Properties Proprietary Limited, registration number 2009/014097/07, or its successors-in-title;

2.1.4 "Property" shall mean an immovable residential property in the Development;

2.1.5 "person" shall include a company, close corporation, partnership, trust or other association of persons entitled by law to hold title to immovable property;

2.1.6 "member" shall mean a member as defined in clause 4.1 hereof;

2.1.7 "The Development" shall mean the entire scheme of Development undertaken by the Developer and comprising the land and improvements thereon on the Development Site;

2.1.8 words importing the singular number shall include the plural and the converse shall also apply,

2.1.9 the masculine gender shall include the feminine and neuter genders and the neuter gender shall include the masculine and feminine genders.

### 3. OBJECTS OF ASSOCIATION

3.1 The objects of the Association are:

3.1.1 to formally represent the collective mutual interest of the Development;

3.1.2 to exercise control over and maintain buildings, services or amenities in the Development in accordance with the conditions imposed by the Stellenbosch Municipality when approving the Development;

3.1.3 to hold at least one general meeting with its members in a calendar year;

3.1.4 to exercise control over the design guidelines of the buildings and erven in the Development;

3.1.5 to take ownership of all common property (properties that are not residential erven) arising from the subdivision, including:

3.1.5.1 Private open spaces;

3.1.5.2 Private roads, and

3.1.5.3 Land required for services provided by the Association;

3.1.6 to enforce the conditions of approval or management plans as imposed by the Stellenbosch Municipality and other authorities when approving the Development;

3.1.7 to determine procedures to obtain the consent of the members of the Association to transfer a Property in the Development if the Owners' Association ceases to function, and

3.1.8 to implement and enforce the provisions of this Constitution;

3.1.9 The maintenance of all civil and electrical services within the Association's property;

3.1.10 The promotion and enforcement of standards for community living on the Development Site in such a way that members may derive the maximum collective benefit therefrom;

3.1.11 The promotion of acceptable aesthetic, environmental and architectural styles and design criteria for the Development Site in accordance with the relevant design guidelines to achieve harmonious development and ensure its maintenance;

3.1.12 To control the design, development and maintenance of all properties in the Development, with particular reference to the Design Guidelines as amended from time to time by the Association, and

3.1.13 The maintenance of the private open space and related common structures within the Development.

#### 4. **MEMBERS**

- 4.1 Membership of the Association shall be evidenced by registered ownership in the Deeds Registry in Cape Town of a Property. Upon registration of ownership, membership of the Association shall be automatic, and members shall be obliged to comply with the provisions of this Constitution. No person shall be entitled to cease to be a member of the Association while remaining the registered owner of a Property in the Development.
- 4.2 The owner or owners of a Property shall be entitled to one vote for each Property owned in the Development.
- 4.3 Membership shall be transferred by the registration of a deed of transfer or endorsement of a title deed in the Deeds Registry at Cape Town, passing transfer of one or more properties in the Development from the previous member to the new member.
- 4.4 Every member shall pay a monthly levy to the Association, which levy shall be determined by the Association during a general meeting. Until the levies have been determined by the members in general meeting, the levies shall be determined by the Developer.
- 4.5 The levy shall be the same for each Property.

#### 5. **EXECUTIVE COMMITTEE**

- 5.1 The powers of the Association, other than those to be exercised by the members in a general meeting, shall be exercised by the Executive Committee (Exco).
- 5.2 Exco shall consist of no less than 3 members, who shall all be members of the Association.
- 5.3 Exco shall meet at such time and place as decided by Exco from time to time, provided that it shall meet within 14 days of an Annual General Meeting.
- 5.4 Special meetings may be called by the Chairman.
- 5.5 Two Exco members may at any time convene a meeting of Exco by giving to the other Exco member or members no less than 10 days' written notice of the proposed meeting, which notice shall specify the reason for calling such a meeting, provided that in cases of emergency such shorter notice as is reasonable in the circumstances may be given.
- 5.6 Two members shall form a quorum at any meeting of Exco. If at any meeting a quorum is not present within 10 minutes of the appointed time of the meeting, such meeting shall stand adjourned to the same day of the following week at the same time.
- 5.7 If the number of Exco members falls below the number necessary to form a quorum, the remaining members may continue to act but only for the purposes of convening a general meeting of members.
- 5.8 Exco shall keep minutes of meetings held and decisions taken, which minutes shall be tabled at the next Exco meeting and Exco shall make a full annual report at the Annual General Meeting.

- 5.9 At the Annual General Meeting a Chairman, Secretary and Treasurer shall be appointed from the elected Exco members, who shall ipso facto be Chairman, Secretary and Treasurer of the Association. The Chairman, Secretary and Treasurer so elected shall hold office as such until the end of the next ensuing Annual General Meeting.
- 5.10 All management decisions shall be taken by unanimous decision. If consensus cannot be obtained, the chairman shall have a casting as well as a deliberative vote.
- 5.11 The management and administration of the Association shall vest with the Developer until the earlier of:
- 5.11.1 the Developer's decision to hand over the management and administration functions to the members, or
- 5.11.2 the first Annual General Meeting following the registration of transfer of the last remaining Property in the Development from the Developer to a third party purchaser, is held. At such meeting the members shall elect the first Exco.
- 5.12 The Developer or Exco, as the case may be, may exercise all such powers of the Association and do, on behalf of the Association, all such acts as may be exercised and done by the Association itself and as are not by its Constitution required to be exercised or done by the Association in general meeting. Without in any way limiting the generality of the foregoing, such powers shall include but not be limited to the following:
- 5.12.1 The determination of what constitutes appropriate standards for community living in the Development;
- 5.12.2 The performance of such acts as are necessary to accomplish the objects expressed or implied herein;
- 5.12.3 The investment and re-investment of money of the Association not immediately required, in such manner as may from time to time be determined;
- 5.12.4 The operation of a banking account with all powers required for such operation;
- 5.12.5 The making of, entering into and carrying out of contracts or agreements for any of the purposes of the Association;
- 5.12.6 The employment and payment of agents, servants and any other parties;
- 5.12.7 The making, amendment and repeal of rules which shall be binding upon members as if they form part of this Constitution;
- 5.12.8 The right to sue and to defend actions in the name of the Association and to appoint legal representatives for this purpose, and
- 5.12.9 The performance of such acts as are required to ensure the security of people and property on the Development Site.

- 5.13 Any act performed by Exco members shall, notwithstanding that it is after the performance of the act discovered that there was some defect in the appointment or continuance in office of any Exco member, be as valid as if such Exco member has been duly appointed in office.
- 5.14 Exco members shall not be entitled to any fees or salary in respect of the performance of their duties as Exco members.
- 5.15 No Exco member shall be liable to the Association or to any member thereof, or to any other person whomsoever for any act or omission by him-/herself, by the Association or by its servants or agents. An Exco member shall be indemnified by the Association against any loss or damage suffered by him in consequence of any purported liability, provided that such member has, upon the basis of information known to him, or which should reasonably have been known to him, acted in good faith and without gross negligence.

## 6. GENERAL MEETINGS

- 6.1 Annual General Meetings of members shall be held once every calendar year at such time and place as may be determined by Exco, but so that no more than 15 calendar months shall be allowed to elapse between any two such successive meetings. The business to be done at the Annual General Meeting shall include:
- 6.1.1 The receipt of a report on the affairs of the Association;
- 6.1.2 The adoption of the minutes of the previous Annual General Meeting;
- 6.1.3 The adoption of the balance sheet and accounts;
- 6.1.4 The consideration of any resolutions concerning the affairs of the Association of which due notice has been given;
- 6.1.5 The determination of the monthly levy to be charged out against all members of the Association to give proper effect to the carrying out of the objects of the Association for the ensuing year, and
- 6.1.6 Any other business.
- 6.2 The first Annual General Meeting shall be called by the Developer and shall be held within 180 days from the first transfer of a Property in the Development.
- 6.3 Exco may call an ordinary general meeting of members whenever it thinks fit.
- 6.4 Ordinary general meetings may also be called upon the written request of not less than 10 members, directed to the Chairman of Exco.
- 6.5 An Annual General Meeting shall be convened on not less than 21 days' notice in writing. An ordinary general meeting shall be called by not less than 14 days' notice in writing. The notice shall be inclusive of the day on which it is given and shall specify the place, the day and the hour of the meeting and the general nature of the matters to be discussed.

- 6.6 The accidental omission of giving notice of a meeting to, or the non-receipt of a notice of a meeting by any person entitled to receive such notice, shall not invalidate the proceedings of that meeting.
- 6.7 No matters shall be discussed at any meeting unless a quorum is present when the meeting commences. For all purposes, the quorum shall be members present in person or by proxy and being not less than 13 members.
- 6.8 If within a half hour of the time appointed for the holding of a meeting a quorum is not present, the meeting, if convened at the request of members, shall stand adjourned for half an hour at the same place. If at such adjourned meeting a quorum is still not present, the members present shall be a quorum. In any other instance (other than convened at the request of the members), it shall stand adjourned to the same day in the next week at the same time and place and, if at such adjourned meeting a quorum is not present within half an hour from the time appointed for holding the meeting, the members present shall be a quorum.
- 6.9 The Chairman of Exco shall preside at every General Meeting, but if there be no such Chairman, the members present shall choose a Chairman from the members of Exco, or if no such members are present, they shall choose some member present to be chairman of the meeting.
- 6.10 At all general meetings resolutions put to the vote, save for resolutions for the election of a member to Exco or his removal therefrom which shall be decided by ballot, voting shall take place by show of hands unless by majority vote the meeting decides that voting shall be by ballot, in which event the ballot shall take place immediately. Voting, whether by show of hands or by ballot, shall take place in accordance with the following provisions:
- 6.10.1 Each member present in person shall have one vote for every Property registered in his name;
- 6.10.2 Each person present as proxy for a member shall have one vote for each Property registered in the name of the member for whom he is proxy;
- 6.10.3 Each member and person present as proxy for a member shall indicate clearly how he casts each vote to which he is entitled as aforesaid;
- 6.10.4 All resolutions shall, except as otherwise provided herein, be by majority vote of those members present in person or proxy at the meeting and voting; In the event that a majority cannot be obtained, the chairman shall have a casting as well as a deliberative vote.
- 6.10.5 The Chairman of the meeting shall count the votes cast for and against the resolution and shall declare it carried or lost, as the case may be;
- 6.10.6 A declaration by the Chairman of the result of the voting by show of hands or ballot and the entry thereof in the minute book of the Association shall be conclusive evidence of that fact.

- 6.10.7 Votes may be given either personally or by proxy.
- 6.10.8 The instrument appointing a proxy shall be in writing in any form approved by Exco under the hand of the appointer, or if such appointer is a company, under the hand of a duly authorised officer.
- 6.11 Any legal person which is a member of the Association may, by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the Association and the person so authorised shall be entitled to exercise the same powers on behalf of the company which he represent as that company could exercise if it were an individual member of the Association.

## 7. **LEGAL STATUS**

- 7.1 The Association shall come into existence upon the registration of transfer from the Developer to a third party of the first Property, but not before the date on which this Constitution is approved by the Stellenbosch Municipality and by the Community Schemes Ombud Service.
- 7.2 The Association shall be a body corporate:
- 7.2.1 with legal personality, capable of suing and being sued in its own name, and
- 7.2.2 none of whose members in their personal capacities shall have any right, title or interest to or in the property, funds or assets of the Association, which shall vest in and be controlled by Exco in terms hereof, and
- 7.2.3 not for profit, but for the benefit of the owners of Property in the Development, and
- 7.2.4 with the right to acquire, hold, lease and alienate property, both movable and immovable.

## 8. **LEVIES**

- 8.1 The Association, through Exco, shall be entitled to levy an annual levy to defray the costs of managing and administering the Association and for the provision of services. Such levies may be fixed annually but shall be collected monthly in advance.
- 8.2 The liability for levies shall commence immediately on the registration of transfer.
- 8.3 If a monthly payment due in advance on account of the annual subscription is not paid within 7 (seven) days of the due date, the Association may institute legal proceedings against the member for the recovery thereof. The costs of such proceedings shall be paid by such member on the scale as between attorney and client and shall be added to the levy. Interest will be charged at the prime overdraft rate charged from time to time on overdue amounts from the due date until paid in full. A member whose levy is not paid on due date shall not be entitled to:

- 8.3.1 vote at any general meeting, and
- 8.3.2 serve on Exco,  
whilst any payment is outstanding.
- 8.4 Exco shall cause proper books of accounts of the administration and finance of the Association to be kept at the domicilium of the Association or such other place or places as it may think fit.
- 8.5 Exco shall cause to be laid before the Association in Annual General Meeting, books of account, balance sheets and reports of the Association.

## 9. **NOTICES**

- 9.1 Any notice or communication required or permitted to be given in terms of this Constitution shall be valid and effective only if in writing, but it shall be competent to give notice email.
- 9.2 Any notice to a member:
  - 9.2.1 sent by prepaid registered post to the domicile shall be deemed to have been received on the 7th day after posting (unless the contrary is proved);
  - 9.2.2 delivered by hand to a responsible person during ordinary business hours at the domicile shall be deemed to have been received on the day of delivery, or
  - 9.2.3 sent by email shall be deemed to have been received on the first business day following the date of sending of such email.
- 9.3 Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a member shall be an adequate written notice or communication notwithstanding that it was not sent to or delivered to the chosen domicile.

## 10. **AMENDMENTS TO CONSTITUTION**

Once approved by the Stellenbosch Municipality and the Community Schemes Ombud Service, this Constitution shall not be altered or amended in any way except with the approval of the said municipality and the Community Schemes Ombud Service, after such alteration or amendment has been approved by the members in general meeting.

## 11. **OWNERS' ASSOCIATION CEASES TO FUNCTION**

If the association ceases to function or carry out its obligations, Section 30 of the Stellenbosch Municipality Planning By-law shall apply to the Association.

## 12. **PERSONAL LIABILITY OF MEMBERS**

No member of the Association shall incur any personal liability in respect of acts done or liabilities incurred by, or on behalf of, the Association.

**CERTIFICATES OF APPROVAL**

I, the undersigned, hereby certify that this Constitution of The Newlands Estate Owners' Association was this day approved by the Stellenbosch Municipality.

Signed at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 2025.

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I, the undersigned, hereby certify that this Constitution of The Newlands Estate Owners' Association was this day approved by the Community Schemes Ombud Service.

Signed at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 2025

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