



**RULES OF THE KINCARDINE HOMEOWNERS
ASSOCIATION**

RULES OF THE KINCARDINE HOMEOWNERS ASSOCIATION

1. DEFINITIONS

- 1.1 **"Aesthetics Committee"** means a committee to be appointed by the Board for the purposes of consulting, if applicable, approving plans for building and alterations to buildings or the Estate, which committee shall consist of 3 (three) members, one of which shall be a practicing professional architect;
- 1.2 **"Architectural Requirements"** means the requirements set out in annexure "A" hereto;
- 1.3 **"Association"** means the Kincardine Homeowners' Association Registration No 2005/020124/08 ;
- 1.4 **"Board"** means the board of Directors of the Association as constituted from time to time;
- 1.5 **"Contractor's Undertaking"** means the document attached hereto marked "B";
- 1.6 **"Directors"** means the Directors of the Association from time to time;
- 1.7 **"Estate"** means the Kincardine Estate situated on the land previously described as Portion 156 and Portion 157 of the Farm Diepsloot No. 388, Registration Division JR, Province of Gauteng;
- 1.8 **"Member"** means the registered owner of a Property in the Estate;
- 1.9 **"Memorandum of Incorporation"** means the Memorandum of Incorporation for the Association registered in accordance with the provisions of the Companies Act, 2008;
- 1.10 **"Resident"** means a person who permanently resides in a Property, whether or not that person is a Member;
- 1.11 **"Scrutiny Fee"** means an amount to be determined from time to time by the Board which shall be payable to the Architect appointed to the Aesthetics Committee;

- 1.12 **"Property"** means an erf, or any subdivision of an erf, or any unit in any sectional title scheme established on an erf in the Estate;
- 1.13 **"Rules"** means these Conduct Rules;
- 1.14 **"Visitor"** means any person entering upon the Estate by invitation from a Member or a Resident;
- 1.15 **"Security Deposit"** means a deposit for the purposes set out in 17 below, the amount of which deposit shall be determined from time to time by the Board;
- 1.16 the singular shall include the plural and *vice versa* and words importing one gender shall include the other genders;
- 1.17 headings to clauses are for reference purposes only and are not to be used in the interpretation thereof;
- 1.18 the number of days prescribed shall be calculated exclusively of the first and inclusively of the last day, unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday.

2. INTRODUCTION

- 2.1 These Rules are made by the Directors of the Board in terms of the Memorandum of Incorporation.
- 2.2 These Rules shall be binding on all Members, Residents and their Visitors.
- 2.3 Any breach of these Rules by a Visitor or Resident who is not a Member, will be attributed to the relevant Member, who shall be held responsible for such breach.
- 2.4 These Rules are made in accordance with, and supplement, the Memorandum of Incorporation.
- 2.5 These Rules shall be enforced by the Board. Any infringement of these Rules may result in the offender being penalised with a fine or such other sanction as may be deemed appropriate by the Board and as more fully provided for in the Memorandum of Incorporation.

3. VEHICLES

- 3.1 The maximum speed limit on the Estate shall be 30 (thirty) km/hour.

- 3.2 The driver of any vehicle on the Estate shall at all times comply with all of the provisions of the applicable Road Traffic Ordinances, municipal bylaws and any other laws relating to the control of a vehicle.
- 3.3 The driver of any vehicle shall ensure that the vehicle is driven in a manner which creates the least possible disturbance to Residents.
- 3.4 No vehicle shall be parked on a sidewalk or pavement, other than as a temporary measure for Visitors.
- 3.5 No repair to (other than in an emergency) or maintenance on any vehicle shall be performed on any part of any Property that is visible from any public road on the Estate.
- 3.6 The Association shall be entitled to prevent from entering the Estate any vehicle which appears to be unroadworthy or likely to leak oil or other substances onto the roads of the Estate or is likely to make an unusual noise or cause a disturbance on the Estate.

4. USE OF HELICOPTER

- 4.1 A Resident or Member shall be entitled to use that Member or Resident's Property for the purposes of landing, storing and taking off of a helicopter, provided that:
 - 4.1.1 the use of such helicopter is for private purposes only;
 - 4.1.2 any activity of such helicopter on the Estate complies in all respects with any legislation relating to the use of helicopters on or over the Estate; and
 - 4.1.3 the Association shall not at any time be required to do anything to facilitate the use of any helicopter on or over the Estate.

5. NOISE AND NUISANCE

A Member or Resident shall only use, or permit the use of mechanical equipment likely to create a noise or disturbance, or undertake any maintenance on his or her Property, during the following hours:

- 5.1 Monday to Friday: 09:00 hours to 16:00 hours
- 5.2 Saturday : 08:00 hours to 13:00 hours
- 5.3 Sunday: Nil

6. USE OF PROPERTY

- 6.1 No Property shall be used for any purpose other than that for which it is zoned in accordance with the Town-planning provisions of the Johannesburg City Council applicable to that Property.
- 6.2 Notwithstanding anything to the contrary in any legislation applicable to any Property in the Estate, any business conducted on any Property shall comply with the following provisions:
- 6.2.1 not more than 20% (twenty per centum) of the floor area of the main dwelling on such Property shall be used for business purposes;
- 6.2.2 employees of the business shall not exceed 2 (two) in number;
- 6.2.3 the conduct of the business shall not constitute a nuisance or disturbance to other residents in the Estate;
- 6.2.4 no signage that is visible from any public road in the Estate shall be permitted;
- 6.2.5 no goods shall be displayed nor shall any business activity be undertaken in such a manner as to be visible from any public road in the Estate; and
- 6.2.6 visitors who enter the Estate to visit any Property for business purposes shall only be permitted to do so between the hours of 08:00 and 17:00 from Monday to Friday.
- 6.3 No private grooms will be permitted to reside on the Estate. Only the stable yard grooms will be permitted to reside on the Estate unless permission is obtained from the Association.
- 6.4 All Members shall be bound by the provisions of the Architectural Requirements.

7. PETS

- 7.1 No pets which weigh in excess of 50 (fifty kilograms) at maturity may be kept on or about the Estate without the prior written consent of the Board.
- 7.2 Every pet shall:
- 7.2.1 wear a collar with a tag indicating the name, telephone number and address of the Property on which it is kept;
- 7.2.2 be restrained while within the confines of a Property by a suitable fencing.
- 7.3 No Member, Resident or Visitor shall permit his or her pet:

- 7.3.1 to leave his or her Property unless such pet is secured by a leash or other restraining mechanism; or
- 7.3.2 at any time to make a noise so as to create a nuisance or disturbance.

8. **SLAUGHTERING OF ANIMALS**

The slaughtering of animals on any part of the Estate, whether for religious, sacrificial, cultural, culinary or other purposes, is prohibited.

9. **REFUSE**

- 9.1 Refuse must be retained in closed refuse containers which, save as set out in 9.2 below, shall be stored so as not to be visible from any public road.
- 9.2 Refuse containers may be placed on the road outside a Property for collection purposes on days designated for such collection and must be removed immediately the refuse has been collected.

10. **SECURITY**

Unless otherwise resolved by the Board, the Estate security shall be undertaken by a single security company appointed by the Board. All Members, Residents and Visitors shall at all times comply with:

- 10.1 any security system or protocol instituted from time to time by the Board; and
- 10.2 any instruction issued by any security officer appointed by the Board where the Board has authorised such security officer to issue such instruction.

11. **ALIENATION**

No Member shall sell or otherwise alienate any Property unless:

- 11.1 the purchaser or alienee has agreed in writing to be and become a member of the Association on the date of transfer; and
- 11.2 the Board has issued a certificate confirming that all levies and other amounts payable to the Association in respect of the Property have been paid, or the payment thereof

has been secured to the Board's reasonable satisfaction, for the period up to and including the date of transfer of the Property to the purchaser or alienee.

12. PRESERVATION OF VELDTUIN

12.1 At least 50% (fifty per centum) of each Property (other than Stand 483, which is excluded from the provisions of this Rule 12) must at all times be left in its natural state (“veldtuin”).

12.2 The Member may determine which part of the Member's Property shall remain as veldtuin; provided that there shall at all times be at least:

12.2.1 10 (ten) metres of veldtuin along the boundaries of the Property other than the street boundary;

12.2.2 and not less than 5 (five) of veldtuin from the edge of the street servitude, or unless the Association consents in writing to the relaxation of these terms.

12.3 There shall be no fences or other barriers between the veldtuin and the boundaries of the Property.

12.4 Prior to the commencement of any building operations on the Property the Member shall submit a plan to the Association, depicting the location of the veldtuin. A Member shall not commence building operations on the Property until the plan of the veldtuin has been approved by the Association.

12.5 Once the position of the veldtuin on the Property has been established in terms of 4 above, the Member shall ensure that the veldtuin is maintained in its natural state in that portion at all times.

12.6 Every Member or Resident shall have the right of access to traverse any area in the Estate set aside as veldtuin at all times, for the purposes of walking thereon, or to use the veldtuin as a bridle path.

13. USE OF SIDEWALKS

A Member or Resident shall be entitled with the prior consent of the Association to maintain and introduce plants on the sidewalk adjacent to the Property occupied by such Member or Resident ("the sidewalk"), provided that:

13.1 any planting shall not interfere with the ability of pedestrians to use the sidewalk;

13.2 the sidewalk shall not any time be used for the storage of building or other materials;

- 13.3 no vehicle shall be parked permanently on the sidewalk;
- 13.4 the sidewalk shall at all times remain under the control of the Association which shall be entitled at any time to vary or withdraw its consent to the member or Resident's use of the sidewalk if this is deemed to be in the interests of the Estate.

14. **LEVIES**

- 14.1 All levies due to the Association shall be paid monthly in advance on or before the first day of each and every month.
- 14.2 The Board shall be entitled to charge a penalty on any amounts paid after the due date for payment. This penalty shall be calculated monthly in advance from the due date for payment to the date that all outstanding amounts paid in full at the prime interest rate plus 3% (three percent) charged from time to time by the Association's bankers, pro-rated if necessary.
- 14.3 No Member shall be entitled to withhold payment of any amount due to the Association for any reason whatsoever.

15. **CONSTRUCTION AND ALTERATIONS**

- 15.1 No building operations or any alterations to any building on any Property in the Estate shall commence without the prior written approval of the Board, which approval shall only be given when:
 - 15.1.1 the Aesthetics Committee has confirmed in writing that the plans of the proposed construction or alterations accord with the Architectural Requirements;
 - 15.1.2 the Member has paid the Scrutiny Fee and the Security Deposit; and
 - 15.1.3 any contractors appointed to undertake any work on the said Property have signed a Contractor's Undertaking in favour of the Association.
- 15.2 All buildings and alterations undertaken on a Property shall be built or undertaken strictly in accordance with the plans as approved by both the Aesthetics Committee and the local authority.

16. **SCRUTINY FEE**

- 16.1 The architect who is appointed by the Aesthetics Committee to consider any plans submitted in terms of these Rules shall be entitled to a Scrutiny Fee as remuneration for considering such plans.

16.2 The Scrutiny Fee shall be determined by the Board from time to time. If it is necessary for plans to be considered more than once, a Scrutiny Fee shall be payable each time the plans are submitted.

16.3 The Scrutiny Fee shall be paid to the Association on the date that the plans are submitted to the Aesthetics Committee for approval by the Member applying for approval of plans.

17. APPROVAL OF BUILDING PLANS

17.1 All plans for the construction of any building on a Property, or any alterations thereto that require the approval of the local authority or will have the effect of changing the appearance of the buildings on the Property shall be submitted to the Aesthetics Committee for approval before submission to the local authority.

17.2 The Aesthetics Committee shall:

17.2.1 ensure that the buildings or alterations reflected on the plans submitted comply in all respects with the Architectural Requirements; and

17.2.2 if there is compliance with the Architectural Requirements, confirm in writing the Aesthetics Committee's approval of the plans.

18. SECURITY DEPOSIT

18.1 A Member shall, prior to commencement of:

18.1.1 any construction of a building; or

18.1.2 any alteration to any building on the Property where said alterations require the storage of building materials on the Property;
pay to the Association a Security Deposit.

18.2 The purpose of the Security Deposit is to ensure that, if at any time during the construction period the Association is required to take any steps to clean up or maintain the Property in the interests of the general appearance and management of the Estate, the Association shall be reimbursed for reasonable costs of taking such steps shall be covered by the Security Deposit.

18.3 The Association shall be entitled:

18.3.1 to deduct any costs so incurred from the Security Deposit immediately it has given the Member written notice to that effect; and

- 18.3.2 to call on the Member to increase or replenish the Security Deposit at any time if the Board so decides.

19. CONSTRUCTION PERIOD

- 19.1 Any buildings on a Property shall be completed within 14 (fourteen) calendar months from the first day of the month following the month in which the first foundation for the buildings is cast.
- 19.2 If all of the buildings approved in terms of 16 above by the Aesthetics Committee have not been completed within the time period referred to in 18.1 above, the Member shall pay a penalty equivalent to 4 (four) times the monthly levy in respect of the Property from the date on which the buildings should have been completed to the date that, in the view of the architect appointed to the Aesthetics Committee at that time, the buildings are practically complete.
- 19.3 The penalty referred to in 18.2 shall be paid monthly in advance and prorated if necessary

20. VACANT STANDS

- 20.1 A Member shall at the Member's cost ensure that, until such time as building commences on any Property:
- 20.1.1 the Property is kept clean and free of any unnatural material; and
- 20.1.2 the grass growing on the Property is cut to a height no greater than 10 (ten) centimetres from the ground in February and October of each year.
- 20.2 If a Member fails to comply with these requirements, the Association shall be entitled (but not obliged) to comply therewith on the Member's behalf and recover the reasonable costs of doing so from the Member

21. FAUNA AND FLORA

- 21.1 No animal, bird, reptile or amphibian found on the Estate shall be interfered with or harmed in any way.
- 21.2 The plant life found on the common areas of the Estate shall be managed by the Association and shall not be interfered with by any person unless so authorised by the Board.

22. CONTRACTORS

Any Member or Resident who invites any Contractors onto the Estate Shall:

- 22.1 ensure that such Contractor signs a Contractor's Undertaking prior to the commencement of any work by the Contractor;
- 22.2 be responsible for ensuring that such Contractor adheres to the conditions contained in the Contractor's Undertaking; and
- 22.3 be responsible for any act or omission as a consequence of which any harm or damage is caused to any person or property on the Estate while such Contractor is on the Estate.

23. SALE

23.1 Conditions of Title

- 23.1.1 If any Member sells or otherwise alienates that Member's Property in the Estate, the Member shall ensure that the deed of transfer contains the following conditions of title:-
 - 23.1.1.1 *“Every Member of the erf, or any subdivision thereof, or any interest therein, or any unit thereon, as defined in the Sectional Titles Act, shall become and shall remain a Member of the Company and be subject to its Memorandum of Incorporation and the Rules, until he ceases to be a Member as aforesaid. Neither the erf, nor any subdivision thereof, or any interest therein, nor any unit thereon, shall be transferred to any person who has not bound himself to the satisfaction of such Association to become a Member of the Property Members Association and bound by the Rules of the Association”*; and.
 - 23.1.1.2 *“The Member of the erf, or any subdivision thereof, or any interest therein, or any unit thereon as defined in the Sectional Title Act, shall not be entitled to transfer the erf or any subdivision thereof, or any interest therein, or any unit thereon, without a clearance certificate from the Association that the provisions of the Articles of Association of the Association have been complied with.*
 - 23.1.1.3 *“The term “Association” in the aforesaid conditions of title shall mean the Company (incorporated Association not for gain). In the event of the Registrar of Deeds requiring the amendment of such conditions, in any manner in order to effect registration of same, the purchaser of same agrees to such amendment”*.

24. LEASE

A Member shall ensure that any person who enters the Estate at his invitation whether as a Resident or a Visitor shall be made aware of these Rules, all of which are binding on such Resident or Visitor.

25. ESTATE AGENTS

- 25.1 Agents selling may only operate on a “by appointment” basis, and must personally accompany a prospective buyer and are not allowed to erect any “for sale” or “sold” signage boards.
- 25.2 “For sale” boards shall only be allowed on showdays and are to be removed before the close of business on any showdays.

26. SALE LEVY

- 26.1 Any Member who alienates a Property, or any interest in a Property, shall pay the Sale Levy of 0,5% (zero comma five per centum) of the value declared to the South African Revenue Services of any Property in the Estate alienated by any party other than the Developer (**"the Sale Levy"**).
- 26.2 In the context of this paragraph "alienate" shall include (but not be limited to) the following transactions:
- 26.2.1 sale, donation or exchange of Property; and
- 26.2.2 sale, donation or exchange of any rights in and to any Property, which rights shall include any shareholding in any Member that is a company, or any members' interest in any Member that is a close corporation or any interest as beneficiary in any Member that is a trust.
- 26.3 The Sale Levy shall be payable:
- 26.3.1 where the Property itself is transferred, on the date on which the transfer of the Property into the name of the alienee is effected; and
- 26.3.2 where rights in the Property are alienated, on the date that such rights are deemed in law to have been transferred.
- 26.4 In the case of the transfer of a Property, the Member alienating the Property shall give the Association security acceptable to the Association for the due payment of the Sale Levy before the Association shall be required to issue a clearance certificate for the Property.

27. STABILISATION FUND

27.1 The Association shall establish a stabilisation fund ("**the Stabilisation Fund**") for the purposes of building up a reserve of funds to finance projects of a capital nature from time to time in order to improve the amenities offered by the Estate.

27.2 The Stabilisation Fund shall be financed by the payment to the Stabilisation Fund of:

27.2.1 any surplus in the monthly levies collected by the Association as determined at the financial year end of the Association; and

27.2.2 a levy of 0,5% (zero comma five per centum) of the value as declared to the South African Revenue Services of any Property in the Estate alienated by any party other than the Developer ("**the Sale Levy**"), as more fully set out in 26.3.

28. AMENDMENT OF RULES

The Company shall be entitled to add to, delete or amend any rule contained herein or adopt any additional rule if the Members in a General Meeting convened in accordance with the Memorandum of Incorporation, so decide.

oo0oo

Annexure "A" to Rules

ARCHITECTURAL REQUIREMENTS

1. The main dwelling, including garaging, domestic quarters and any permitted outbuildings, must have a minimum area of 500 (five hundred) square metres.
2. No dwelling may be completely flat roofed. Where a design has an element of flat roof, such portion may not exceed 50% (fifty per centum) of the total roof area.
3. Solar heating panels should be incorporated into the buildings to form an integral part of the design from the outset.
4. Additions must match original design and style, both in elevation consideration, as well as materials etc.
5. Domestic accommodation and kitchens must open onto a screened yard or patio.
6. Back courtyard wall and screen wall from wrought iron is permitted, but must match the basic materials of the buildings. Maximum height of yard and screen walls shall be 2 (two) metres high, unless written approval is obtained from the Company.
7. No fence other than a "ranch style" or a "Clear VU" type fence shall be permitted on the boundary of the building envelope. The "ranch style" fence shall be a precise fence. The "Clear Vu" fence shall be 1.8m high and shall be either green or black. Only 50% (fifty per centum) of the erf may be fenced. The fence may not be closer than 3 (three) metres from the erf boundary or any road servitude.
8. The height of dwelling units may not exceed 2 (two) storeys, third floor Attic rooms will be permitted subject to approval by the Association and local authority. Only 30% (thirty per centum) of the total square metres of the house may be the first floor (e.g. ground floor 640 (six hundred and forty), first floor 192 (one hundred and ninety two) square metres). These percentages may be varied at the sole discretion of the Association.
9. No lean-to or steel carports will be allowed. Matching brick and roof of main house will be permitted.
10. All exposed plumbing pipes must be adequately screened. Plumbing pipes must be concealed in suitable ducts. In double storey houses, these ducts must be integrated with the design of the house, not applied on the outside.
11. "Granny" flats will be considered in special circumstances but must form part of the

main dwelling subject to local authority approval.

12. Electrical specification to each Property

12.1 Due to constraints on the local authority and Eskom in the provision of electricity to the Estate, the development of any Property must be undertaken on the assumption that the available electricity supply will not exceed 20 (twenty) KVA.

12.2 Each Member must use the Member's best efforts to limit the Member's dependence on the Eskom supply grid. In this regard, the following is recommended:

12.2.1 solar heating; or

12.2.2 gas installations.

12.2.3 The installation of generators is permitted, provided that any generator installed must have sound-dampening systems as determined by the Aesthetics Committee from to time.

12.3 Plumbing

Sewers to be a 2 (two) pipe system. Grey water to be used for irrigation to gardens, septic tank system to be approved by the local authority and Association.

12.4 Building Lines

10 (ten) metres on all boundaries.

12.5 Paving and Driveways

Paving specification to be approved by the Association.

12.6 Carports and Garage Doors

The initial construction of the house must contain covered parking.

Annexure "B" to Rules

CONTRACTOR'S UNDERTAKING

CONTRACTOR:

Name of Company:

Registration number of Company:

Address of Company:

.....

.....

Name of Company representative:

Position in Company:

Contact number:

EMPLOYER:

Name of Employer:

Address of Employer:

.....

Contact number

PROPERTY:

.....

1. UNDERTAKING

- 1.1 I the undersigned, being duly authorised hereto, confirm that the Company referred to above ("**the Contractor**") has been appointed to do certain work on the Property referred to above ("**the Site**").
- 1.2 I undertake to the Kincardine Homeowners Association to ensure that the Contractor and every person who enters Kincardine Estate for and on behalf of the Contractor (all of whom are included in the definition of "**the Contractor**" in this Undertaking) adheres to the conditions set out below while on Kincardine Estate.

2. HOURS OF WORK

No Contractor shall be permitted to be on the Estate outside of the following hours:

- 2.1 Monday to Friday 07:00 to 17:00
- 2.2 Saturday 08:00 to 13:00
- 2.3 Sundays and Public Holidays: Nil except in emergencies.

3. ACCESS TO ESTATE

- 3.1 The Association shall at any time be entitled to refuse access to the Estate to any Contractor who is not able to produce proof of identity to the satisfaction of the Association.
- 3.2 Every Contractor shall enter the Estate only through such entrance or entrances as the Association may designate for this purpose from time to time and shall submit to such security checks and protocols as the Association deems desirable.

2. SITE HYGIENE

The Contractor shall ensure that:

- 4.1 any area on the Site where the Contractor is working is screened from public view to the satisfaction of the Association;
- 4.2 the Site shall at all times be kept in a clean, tidy and hygienic condition;
- 4.3 all rubbish shall be stored in a pest-proof environment on the Site and removed from the Estate as soon as is possible;
- 4.4 no open fires shall be permitted on the Site;
- 4.5 toilet facilities are provided on the Site and that these are properly screened, cleaned, maintained and used by the Contractor; and
- 4.6 all building materials are stored on the Site and are neatly packed.

5. RIGHT OF ADMISSION RESERVED

The Contractor acknowledges that the Association reserves the rights to:

- 5.1 refuse access to the Estate to any person; or
- 5.2 require any person to leave the Estate;

without giving reasons for exercising these rights.

SIGNED at on this the day of 20...

AS WITNESSES:

1.

2.

.....

THE CONTRACTOR

SIGNED at on this the day of 20...

AS WITNESSES:

1.

2.

.....

THE EMPLOYER