

RULES - FERNWOOD

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RULES OF FERNWOOD

1. INTERPRETATION

1.1 In these rules, unless inconsistent with or otherwise indicated by the context -

1.1.1 "**architectural guidelines**" means the general and specific architectural guidelines of Fernwood from time to time comprising, *inter alia*, the sketch plan submission requirements;

1.1.2 "**the Association**" shall mean the Fernwood Home Owners Association;

1.1.3 "**chairman**" means the chairman of the Trustees of the Association appointed in terms of the constitution from time to time;

1.1.4 "**common property**" means the remainder of the land after deduction of all residential erven within the development and the remainder being private open space for the golf course.

1.1.5 "**constitution**" means the Constitution of the Fernwood Home Owners Association;

1.1.6 "**consulting architects**" means the architects appointed as such by the Association from time to time;

1.1.7 "**trustees**" means the trustees for the time being of the Association or their alternates, as the case may be;

1.1.8 "**the development**" or "**the estate**" shall mean the land together with all improvements and services thereon;

1.1.9 "**the manager**" means the Administrator appointed by the Association from time to time;

1.1.10 "**member**" means a member of the Association;

1.1.11 "**owner**" shall mean any person lawfully occupying an erf by virtue of his relationship to or with a member of the Association.

1.1.12 "**possession date**" means the date of registration of transfer of an erf from the developer into the name of the owner;

1.1.13 "**resident**" shall mean any person who is resident at the estate and includes guests, owners and members of their family, their guests and tenants;

- 1.1.14 "**the rules**" means the rules contained in this document and as amended by the Association from time to time;
- 1.1.15 "**vehicle**" means any form of conveyance, whether self-propelled or drawn by machine, animal or otherwise;
- 1.1.16 "**workers**" means domestic workers, labourers and sub-contractors employed or appointed by owners and/or residents and/or persons operating a business within the estate from time to time;
- 1.1.17 any reference to the singular includes the plural and *vice versa*;
- 1.1.18 any reference to natural persons includes legal persons and *vice versa*;
- 1.1.19 any reference to gender includes the other genders;
- 1.1.20 words and phrases defined in the constitution bear corresponding meanings herein.
- 1.2 The clause headings in these rules have been inserted for convenience only and shall not be taken into account in its interpretation.
- 1.3 If any period is referred to in these rules by way of reference to a number of days, the days shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a business day, in which case the day shall be the next succeeding business day.
- 1.4 These rules shall be governed by and construed and interpreted in accordance with the law of the Republic of South Africa.

2. INTRODUCTION

- 2.1 The purpose of these rules is to govern the use of the estate and its facilities.
- 2.2 These rules are not intended to limit the lifestyle of residents, but rather to protect them, and are binding equally on all residents.
- 2.3 These rules are administered and enforced by the trustees. It is the responsibility of every owner to ensure that all residents abide by the rules.

3. DISTURBANCES

- 3.1 Any conduct, save for normal agricultural activities, which disturbs or tends to disturb the peace and tranquility of the estate and residents is not permitted.
- 3.2 Excessive and unnecessary noise by vehicles, appliances, tools, pets and/or excessive noise by individuals as determined by the trustees in their sole and unfettered discretion from time to time as well as other sources attributable to a resident constitutes a disturbance of the peace in terms of these rules.

4. DOMESTIC REFUSE

- 4.1 All refuse shall be kept in suitable containers which shall not be visible from any road, except when placed in containers for purposes of collection by the local authority, the manager or waste collection contractors, provided that the manager may, from time to time, by notice in writing to all residents –
 - 4.1.1 prescribe the type and size of refuse containers to be obtained and used;
 - 4.1.2 provide directions in regard to any place designated for refuse removal;
 - 4.1.3 require the payment of a reasonable charge for the provision of such containers.
- 4.2 It shall be the duty of every resident to ensure that any direction given by the manager from time to time is observed and implemented.
- 4.3 Where, in the opinion of the manager, any refuse is of such size and nature that it cannot be expediently removed by the local authority or by waste collection contractors, the manager shall give the resident wishing to dispose of such refuse such directions for its disposal as he may deem fit.

5. ANIMALS

- 5.1 Unless written authority has been given by the Association to any member, only domestic animals posing no danger may be kept which shall be limited to 2 (two) animals per erf.
- 5.2 All domestic animals shall at all times bear a tag which shall reflect the name, telephone number and unit number of the relevant owner.
- 5.3 No reptiles, cattle or the like may be kept. If animals are brought onto or found upon the estate contrary to the provisions of these rules or if any animal creates a nuisance to other residents, the Association shall be

entitled (without limiting the generality of the rights afforded to it in terms hereof) to either –

- 5.3.1 require the relevant owner to remove the animal from the estate; and/or
- 5.3.2 itself remove the relevant animal from the estate and to claim all costs so incurred from the relevant owner.
- 5.4 Dogs must be kept in suitable enclosures and be prevented from straying off the relevant owner's erf.
- 5.5 Dogs shall not be allowed on common areas unless under strict control and on a leash. If any dog digs holes and/or otherwise damages common areas, the relevant owner shall be required to repair the damage.

6. SECURITY

- 6.1 No person shall do anything which is, or might be, prejudicial to the security of any residents and residents are to report incidents affecting security to the manager.
- 6.2 No vehicles or persons shall enter or leave the estate at any point except at the entrance gates other than in extra-ordinary circumstances and with the prior written consent of the manager.
- 6.4 All vehicles entering and/or leaving the estate shall stop at the vehicle entrances.
- 6.5 The right of admission to the estate shall be under the control of the Association that may on any reasonable grounds deny any person access to the estate.
- 6.6 Other than those contained herein, the manager may from time to time prescribe further rules in respect of security on the estate.

7. DOMESTIC WORKERS AND LABOURERS

- 7.1 Workers are obliged to abide by these rules and the constitution. Residents are obliged to supply their workers with copies of these rules and the constitution and to ensure that they are aware of all the provisions.
- 7.2 Residents are required to notify the Association of and to provide full details of any workers who reside on the estate.

- 7.3 Residents shall, at their own cost, ensure that all workers wear clean and presentable uniforms within the estate.
- 7.4 Residents shall use their best endeavours to ensure that none of their employees –
 - 7.7.1 behave or engage in conduct unbefitting the high standard of the estate.

8. TRAFFIC

- 8.1 The movement and control of traffic and pedestrians are subject to these rules and such further directives as may be made by the manager with regard thereto.
- 8.2 Subject to consent being obtained from the manager, heavy vehicles are not permitted without the consent of the Association on Saturdays, Sundays or public holidays, nor before 07:00 and after 18:00 on weekdays.
- 8.3 Motorised vehicles shall be driven on roads only, and only by persons who hold valid current international or South African drivers licences.
- 8.4 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.
- 8.5 Persons, animals and birds shall at all times have the right of way on and about the estate. Vehicles shall be brought to a stop whenever necessary.
- 8.6 The Association may by means of appropriate signage give directions as to the use of roads or any portion of roads and/or common areas. Failure by any person to obey such signage shall constitute a contravention of these rules.
- 8.7 No person shall drive or ride any vehicle within the estate in such a manner that would constitute an offence under any traffic ordinance. All vehicles shall be in a good and roadworthy condition. Without limiting the generality of the foregoing, vehicles emitting excessive noise and/or smoke are prohibited.
- 8.8 The driving of vehicles is confined to roads and driveways, provided that non-motorised vehicles may be used on those areas (if any) specifically designated by the Association for that purpose.
- 8.9 No person shall park or store any caravan, boat, truck or lorry within the

estate, except with the consent of the Association and in a place designated for such purpose, provided that the Association shall not be under any obligation to provide any storage facilities or designated places for the use of residents.

- 8.10 No trailers or caravans shall be brought onto the estate, except with consent of, and subject to, such conditions as may be prescribed by the Association from time to time.
- 8.11 Quad bikes may be stored under the conditions of 8.14 above but must not be ridden anywhere on the estate.

9. COMMON AREAS AND ENVIRONMENTAL ASPECTS

- 9.1 The Association shall be entitled to control all aspects of the environment on or about the estate (except for the golf course), including but not limited, to the management and control of fauna and flora and the maintenance and upkeep of any vineyards and orchards within the common areas on the estate.
- 9.2 No person shall do anything or omit to do anything that may, in the opinion of the Association, be likely to have a detrimental effect on the environment or that is likely to unreasonably interfere with the use and enjoyment of common areas and/or the golf course by residents.
- 9.3 Littering and camping are prohibited. Fires may not be lit on or about common areas and/or the golf course except in places specifically designated by the Association for that purpose. Fires may not be lit on any units other than in properly constructed braai/fireplaces designed for that purpose or manufactured braais, including, but not limited to, a Weber braai.
- 9.4 No person shall conduct any gardening and/or landscaping on common areas and/or the golf course. No person shall (without the prior written authority of the Association) pick or plant any flowers or plants on or about the common areas.
- 9.5 The Association shall be entitled to prohibit or restrict access to any part of the estate, excluding the units, in order to preserve the natural fauna and flora.
- 9.6 No person shall discharge any firearm, air-rifle, crossbow or similar weapon or device on or about the estate other than in self-defence. Hunting and trapping in any manner are strictly prohibited.

- 9.7 No person shall anywhere on the estate disturb, harm, destroy or permit to be disturbed, harmed or destroyed any wild animal, domestic animal, reptile or bird.

10. LETTING AND RESALE

- 10.1 These rules apply to and are binding upon all tenants. An owner (or his agent) who intends to let a unit shall furnish his tenant with a copy of these rules.

- 10.1.1 The Association has to give its approval prior to any permanent unit being let.

- 10.1.2 The Association will consider the occupation of a permanent unit for financial gain as a rental (leasing) arrangement which will require the Association's approval no matter how short the period is.

- 10.1.2 The Association consider short term letting of six (6) days or less as a commercial activity which is prohibited in terms of the Articles and accordingly the Association will not give its approval as required in terms of 10.1.2 above.

- 10.2 Members or their agents shall give the Association prior written notice of any tenants or guests who are to occupy the member's residence in the absence of that member. Every tenant and/or guest shall be required to register at the offices of the manager within 1 (one) working day after arrival and to sign a declaration that he is acquainted with these rules and acknowledges that these rules are binding on him.

- 10.3 If any tenant, guest, employee or other invitee of any member fails to comply with any of the provisions of these rules, the Association shall be entitled to deny that tenant, guest, employee or other invitee access to the estate.

- 10.4 Units may be re-sold or let by owners only through an estate agent approved of by the Association, which estate agent shall be required to abide by such rules and directives relating to advertising, access to the estate, the holding of show houses and the like as the Association may from time to time reasonably determine. Any agent who fails to abide by any such rules and directions may be denied access to the estate.

11. CONDUCT

- 11.1 No washing of any nature (including but not limited to garments and

household linen) may be hung or placed to dry except in areas specifically designated for that purpose. All washing lines and similar devices must be placed below the level of garden/yard walls in order that they are not readily visible from any road and/or other unit.

- 11.2 No unauthorised persons are allowed on any unit where building operations are under progress.
- 11.3 No person shall make or cause to be made any undue disturbance or noise or do anything or allow anything to be done that may constitute a nuisance in the sole and unfettered discretion of the trustees and/or the manager to other residents.

In particular and without limiting the generality of the foregoing –

11.3.1 burglar alarms must comply with any regulations which the Association may make with regard thereto from time to time;

11.3.2 the use of noisy machinery and power tools in the open (i.e. outside a purpose built workshop), outside of normal working hours must be avoided and is permitted only occasionally and in exceptional circumstances;

11.3.3 all building work, whether undertaken by a contractor or by the resident, must be done during the hours stipulated by the Association from time to time for building contractors, unless written approval is given by the Association for building operations to take place outside such hours;

11.3.4 loud music and other undue noise are not permitted.

- 11.4 In order to maintain the low density residential nature of the estate, no member or tenant shall accommodate or allow the accommodation of more than 2 (two) persons per bedroom in any dwelling on the estate.

12. COMMERCIAL ACTIVITIES

- 12.1 Save for those commercial activities existing on the estate at the time of the incorporation of the Association, the Association is entitled to regulate all commercial activity on or about the estate. No application for any trading or similar licence may be made to conduct any commercial activity of any nature from any unit without the prior written consent of the Association, which consent shall not be unreasonably withheld.

- 12.2 No advertising board or signs, including business signage of any nature, may be displayed on or about the estate without the Association's approval.
- 12.3 No door to door canvassing and/or selling is permitted.

13. BUILDING REQUIREMENTS AND CONSTRUCTION

- 13.1 The provisions of the constitution and the architectural guidelines relating to the construction of buildings must be strictly complied with.
- 13.2 Without limiting the generality of 14.1, no building or structure shall be erected on the estate unless the sketch plan submission requirements have been met and the plans, specifications and construction thereof comply with the architectural guidelines and the sketch plans and working drawings submitted in terms of 14.3 of these rules.
- 13.3 A scrutiny fee determined by the Association from time to time, shall be levied in respect of the scrutiny of any sketch plans and working drawings by the consulting architects.
- 13.4 Should building not commence within six (6) months of plan approval, the latest guidelines will apply and plans will have to be re submitted.
- 13.5 During the course of construction of any building, the Association shall be entitled to direct the relevant owner or his appointed contractor to effect improvements to the quality of any aspects of the construction should the Association deem such improvements to be necessary.
- 13.6 The Association shall be entitled to direct the relevant owner to effect maintenance work on his home should the Association deem such maintenance necessary.
- 13.7 Should any dispute arise in connection with the architectural guidelines, including without limitation, the application and/or interpretation thereof, the consulting architects decision in respect of any such dispute shall be final and binding upon the parties to the dispute and if necessary the consulting architects can make the necessary amendments to the architectural guidelines where such guidelines are, in the sole discretion of the consulting architects, lacking or vague.
- 13.8 The appointment of building contractors is subject to the prior written approval of the Association, which approval shall not be unreasonably withheld.

- 13.9 Every building contractor shall be required to abide by the rules, the architectural guidelines and any other rules made by the Association regulating the conduct of building contractors from time to time and to sign such prescribed undertakings as may be determined by the Association with regard thereto. A building contractor will not be allowed to undertake any building work on the estate until such time as the undertakings referred to in this clause have been given.
- 13.10 Any building contractor who fails to sign any such prescribed undertaking and/or fails to comply with the provisions thereof may be denied access to the estate.
- 13.11 A member shall be obliged to have completed the building of his/her home within a period of 36 (thirty six) months from the first date of transfer of his/her unit from the developer of the estate. Failure to comply will result in the Association imposing a levy upon the owner equal to 5 (five) times the levy per unit per month until completion.
- 13.12 Once building has commenced, members must complete same within 9 (nine) months unless written consent has been obtained from the Association. Failure to comply will result in the Association, with effect from the completion of the 9 (nine) month period, imposing a levy upon the owner equal to 5 (five) times the levy per unit per month until completion.
- 13.13 For the purpose of these rules, final completion shall mean that all items and snagging for both exterior and interior shall be fully completed and that all contractors and sub-contractors will have moved off site.
- 13.14 For the avoidance of doubt, an owner who is in breach of the provisions of both 13.10 and 13.11 will only be liable for the penalty levy under either 13.10 or 13.11, but not both.
- 13.15 No residents may make any alterations, additions or extensions to the exterior of any unit without adhering to the provision in 13.2.
- 13.16 No member shall be entitled to build a tennis court, netball court or erect basketball hoops on any unit within the development.
- 13.17 No residential unit or section thereof on the Estate may be occupied prior to obtaining written consent by the Association and confirmation that it is substantially complete and capable of final completion within 30 (thirty) days of the date of occupation. In order to obtain this approval the following stipulations must have been adhered to at least.
- 13.17.1 All structures must have been completed in full accordance with the

building plan approved by the local authority.

- 13.17.2 A permanent water meter, obtained from the Association, must be installed and pressure tested by the Building contractor's plumber.
- 13.17.3 All exterior work including walls, palisades, pergolas, boundary walls, drive ways, water features and swimming pools must be completed according to the plan approved by the local authority.
- 13.17.4 All the structures must be painted to the satisfaction of the Association.
- 13.17.5 All rubble, litter and rubbish must have been removed from the unit.
- 13.17.6 The entire area of the unit not covered by structures or drive ways must be landscaped to the satisfaction of the Association.

For the purpose of this document final completion shall mean that all items and snagging both exterior and interior shall be fully completed and that all contractors and sub contractors will have moved off site. Failure to comply will result in the Association imposing a levy upon the purchaser equal to 5 (five) times the levy per unit per month until completion.

14. FIRE PREVENTION AND HAZARDOUS SUBSTANCES

- 14.1 No person shall bring or permit any person to bring any substances onto the estate or permit the storage of any substances on the estate which may constitute a fire hazard or a threat to the health of any resident or other person or which may result in the contamination of the estate.
- 14.2 Fireworks are strictly prohibited.

15. LANDSCAPING , POOLS AND JUNGLE GYMS

- 15.1 The nature, content and design of the gardens within any unit, including the establishment and maintenance of landscaping in these areas and all pools must be maintained and shall be subject to the standards required by the Association. Should the standards not be adhered to, the Association shall take such steps as it may deem necessary in order to ensure that the required standards are adhered to and will charge the owner accordingly.
- 15.2 Owners may apply to the HOA to landscape areas of common ground

around an erf owned by them which, in their view would benefit from extra landscaping. Whether this will be permitted will be entirely in the discretion of the HOA with regard to any area or erf, and owners will be obliged to accept that such permission will be approved in certain cases and not in others.

Application must be made to the HOA in accordance with the following guidelines and rules, and an application fee of R1,000 will be payable.

Guidelines for Individual Landscaping.

1. Detailed plans including a list of plant species should be submitted to the HOA together with the prevailing non-refundable fee and these will be approved or otherwise in conjunction with the Landscape Architects for the Estate at the sole and absolute discretion of the HOA. No plant species excluded in terms of the Conservation of Agricultural Resources Act 43 of 1983, or any other applicable legislation, will be considered.
2. An agreement will be entered into for the implementation and maintenance of the area concerned which will be renewable on an annual basis but which may be cancelled at any time at the sole discretion of the HOA. In the case of an owner not maintaining the area to the satisfaction of the HOA in its sole discretion, the right to landscape and maintain the area will be withdrawn with immediate effect, and the HOA reserves the right to reinstate the area as it deems fit at the cost of the owner concerned.
3. No man made structures such as garden furniture, braais, fences or barriers will be allowed on common areas other than those already built or placed there by the developer as part of the original plan.
4. All other home owners will have access to the area with no restrictions other than those already imposed by the estate rules.
5. Only areas of common land belonging to the HOA may be included. Areas designated to the Golf Course will not be allowed.
6. The HOA's decision including rejection of an application will be final.
7. The nature of the landscaping should be in keeping with existing areas on the estate and with the immediate surrounds.
8. Plans should not compromise or interfere with any existing estate services particularly water and electricity. Relevant waivers should be obtained before commencement of work.

9. Soil preparation and the supply of appropriate irrigation should be provided by the Owner at his expense and to the satisfaction of the HOA.

10. Plans should include a maintenance programme, which will be monitored by the HOA

11. Work must be completed within one month of plan approval.

16. WATER

16.1 Collection of rainwater is permitted, provided that the design of such method is permitted in terms of the architectural guidelines and approved by the Association.

16.2 In order to effectively manage water resources, no borehole may be sunk on or about the estate nor any existing borehole used for any purpose whatsoever.

16.3 The Association shall take all reasonable steps to procure and maintain an adequate supply of water to owners, but does not guarantee that same will always be maintained.

16.4 The Association shall not be liable for damages, expenses or costs caused to residents for any interruption in supply or failure to supply water to residents.

16.5 The Association shall not be liable for damages, expenses or costs caused to residents due to flooding and excess storm water.

17. FINES AND PENALTIES

17.1 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 estate 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.

17.2 If any person contravenes or fails to comply with any of the provisions of these rules or any conditions imposed by or directives given by the Association in terms of these rules, the trustees shall be entitled (without limiting any other rights afforded to them in terms of these rules) to impose

such fines as may be approved by the Association from time to time on the person concerned. If the person concerned is a family member, guest, tenant or other invitee of a member, that member will be liable for payment of such fine. Any fine imposed on a member and/or his family members, tenant, guest or other invitee shall be deemed to be a debt due and payable by the member concerned to the Association forthwith on demand.

- 17.3 The provisions of this clause are without prejudice to any other rights that the Association may have in terms of the constitution or at law.

18. ENFORCEMENT OF THE RULES

- 18.1 For purposes of the enforcement of any of the rules, the trustees may take or cause to be taken such steps as they may consider necessary to remedy the breach of the rule of which a resident may be guilty, and the Association may take such action, including court proceedings, as it may deem fit.
- 18.2 In the event of any member disputing the fact that he has committed a breach of any of the rules, a committee of 3 (three) trustees appointed by the chairman for that purpose, shall adjudicate upon the issue at such time and in such manner and according to such procedure as the chairman may direct.
- 18.3 Notwithstanding the foregoing, the trustees may in the name of the Association enforce the provisions of any rules by proceedings in a court of competent jurisdiction and for this purpose may appoint such attorneys and counsel as they may deem fit.

19. GENERAL RULES

- 19.1 The Association shall have control of the use of all recreational and entertainment facilities and all other amenities on the common areas of the estate and the trustees shall have the right to levy charges for the use thereof.
- 19.2 In general, where no specific rules have applicability, the trustees reserve the right for the manager to make rules from time to time that he may deem necessary.
- 19.3 The trustees reserve the right for the manager to amend these rules from time to time in such manner as he deems necessary.