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# UPPER OAK

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## CONDUCT RULES

*(With the necessary changes section 35(2)(b) of the Sectional Titles Act, No 95 of 1986 is applied subject to the Statutes and Management rules of the Constitution of the Home Owners Association)*

for the use and enjoyment of the sections and common property of

**THE BODY CORPORATE OF UPPER OAK  
SECTIONAL TITLE SCHEME TO BE REGISTERED**

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## **2 PRELIMINARY**

These rules shall not be added to, amended or repealed except in accordance with section 35(2)(b) of the Act, and subject to the provisions of section 35(3) and (5) of the Act, subject to the stipulations of the Management Rules and Constitution of the Homeowners Association known as Boundless Master Association NPC (registration number 2015/153684/08).

## **3 BINDING NATURE**

The Constitution of the Homeowners Association, provisions of the Act, the management rules and these rules and the duties of an owner of a section in relation to the use, occupation and enjoyment of his section and the use and enjoyment of the common property shall be binding on the owner, the lessee and other occupier of the section, and it shall be the duty of the owner of the section to ensure compliance with these rules by the lessees or other occupiers of his section, including by the family members, guests, visitors, employees and contractors of the owner, lessee or occupier of the section.

## **4 DEFINITIONS AND INTERPRETATION**

4.1 In the interpretation of these rules, unless the context otherwise indicates:

4.1.1 **‘Act’** means the Sectional Titles Act, 1986 (Act 95 of 1986), as amended from time to time and any regulations made and in force thereunder, and subsequent to the date of its coming into effect, the Sectional Titles Schemes Management, 2011 (Act 8 of 2011), as amended from time to time, and any regulations made and in force thereunder. Any reference to a section of the Act herein shall, subsequent to said date, be deemed to be a reference to a corresponding section in the latter Act;

4.1.2 **‘Alterations’** mean any work involving Structural Alterations or additions to a section and/or the common property, including any work which affects the exterior appearance of a section and/or the common property, including the appearance of windows and doors;

- 4.1.3        **‘Building’** means any building in the scheme;
- 4.1.4        **‘Common Property’** means the Premises and such part of the buildings as are not included in any unit;
- 4.1.5        **‘Contractor’** means any artisan, builder, electrician, plumber or other person appointed by or on behalf of an owner of a section to perform Alterations, Renovations or work on his behalf;
- 4.1.6        **‘Employee’** means the domestic worker or other employee of the owner or occupier of the section;
- 4.1.7        **‘Local authority’** means the City of Tshwane or its successors in title;
- 4.1.8        **‘Nuisance’** means any act, omission or condition, which in the opinion of the trustees is offensive, injurious or dangerous to health, materially interferes with the ordinary comfort, convenience, peace or quiet of owners or occupiers of sections, or which adversely affects the safety of owners or occupiers of sections, having regard to the reasonableness of the activities in question in the section or on the exclusive use area concerned or on the common property, and the impact which results from these activities, and the noise related to these activities;
- 4.1.9        **‘Occupier’** means the lessee or other occupant of a section and ‘resident’ shall have a corresponding meaning;
- 4.1.10       **‘Premises’** means the land and buildings comprising the scheme;
- 4.1.11       **‘Prime Rate of Interest’** means the publicly quoted Prime Rate of Interest (percent per annum, compounded monthly in arrears and calculated on a 365 day year irrespective of whether or not the year is a leap year) as published by ABSA Bank Limited (or its successor) as being the prime rate from time to time, as certified by any manager of such bank whose authority, appointment and/or designation need not be proven
- 4.1.12       **‘Renovation’** means an internal redecoration or refurbishment of the existing interior of a section, including the replacement, removal or creation of internal fittings such as kitchen and other cupboards, sanitary ware and floor coverings, including tiling, wooden flooring, laminated flooring and carpeting;

- 4.1.13 **‘Structural Alteration’** means an alteration which is of a permanent nature and which alters the form or structure or essential framework of a building on the inside or outside thereof, and for the purposes of these rules the following Alterations shall be regarded as Structural Alterations:
- 4.1.13.1 the construction of a building, building improvement or structure on the common property or on an exclusive use area;
- 4.1.13.2 the enclosing of a balcony; and
- 4.1.13.3 the removal and/or reconstruction of a wall or part thereof.
- 4.1.14 **‘these rules’** mean these conduct rules;
- 4.1.15 **‘Unit/Section’** shall have the meaning defined in the Act;
- 4.1.16 the annexures to these rules shall be deemed to be incorporated in, and form part of, these rules;
- 4.1.17 the headings to the respective rules and sub-rules are provided for convenience of reference only and are not be taken into account in the interpretation of these rules;
- 4.1.18 words and expressions to which a meaning has been assigned in the Act and the management rules shall bear the meaning so assigned to them;
- 4.1.19 words importing:
- 4.1.19.1 the singular number only shall include the plural, and the converse shall also apply;
- 4.1.19.2 the masculine gender shall include the feminine and neuter genders, and the neuter gender shall include the masculine and feminine genders.
- 4.1.20 when any number of days is prescribed in these rules, the same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or proclaimed public holiday in the Republic of South Africa, in which event the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday;
- 4.1.21 where figures are referred to in words and in numerals in these rules, if there is any conflict between the two, the words shall prevail;

- 4.1.22 in the event of any conflict between these rules and the management rules, the management rules shall prevail.

## **5 DIRECTIVES**

The trustees may issue directives in connection with any conduct rule to provide direction and information as to the practical application of the conduct rule. The trustees are not authorised to create new conduct rules through their issuing of directives. A directive shall not be in conflict with any management rule or conduct rule.

## **6 ANIMALS, REPTILES AND BIRDS (PETS)**

- 6.1 An owner or occupier of a section shall not, without the consent in writing of the trustees, which approval may not unreasonably be withheld, keep any animal, reptile or bird (pet) in a section or on the common property, provided that the number of animals shall be restricted to 1 (one) animals per section.
- 6.2 To obtain the approval of the trustees in terms of sub-rule 6.1, an owner or occupier of a section shall apply to the trustees in writing, and such application shall be accompanied by the information and documentation as may be required by the trustees.
- 6.3 The trustees shall consider each application upon its merits having regard to the municipal by-laws, the potential size and potential disruptive nature of the animal, reptile or bird (pet), and the interest of other owners and occupiers of sections. The trustees may grant their approval or refuse such approval with reasons being furnished.
- 6.4 When granting their approval as referred to in sub-rule 6.1, the trustees may impose reasonable conditions pertaining to the keeping of the animal, reptile or bird (pet). The trustees may from time to time prescribe any reasonable conditions relating to the keeping of animals, reptiles or birds (pets). The following requirements shall be regarded as conditions imposed by the trustees in terms of this rule, without detracting from the trustees' discretion to impose further reasonable conditions:

- 6.4.1 Owners and occupiers of sections shall be responsible to immediately clean any soiling by their pets of the common property, failing which the trustees may have the area cleaned at the cost of the owner of the section;
- 6.4.2 Owners and occupiers of sections shall ensure that their pets do not cause a nuisance or danger to an owner or occupier of a section;
- 6.4.3 A dog will be restricted to the section of the owner or occupier, and will not be permitted access to the common property, unless leashed and under control of a responsible person.
- 6.4.4 It is agreed that in respect of sections or units smaller than 50 square metres, no dogs or cats will be allowed;
- 6.5 The trustees may withdraw their approval in the event of any breach of any condition prescribed by the trustees in terms of sub-rule 6.4 or referred to in sub-rule 6.4, whereupon the owner or occupier shall be obliged to remove the animal, reptile or bird from the section and the common property within a period of 10 (ten) days after being called upon to do so by the trustees. Prior to withdrawing such approval, the trustees shall first give written notice to the owner or occupier to remedy such breach within 5 (five) days of receipt of the said notice.
- 6.6 If deemed necessary by the trustees, they may apply to a Court having the necessary jurisdiction, for an order for the removal of an animal, reptile or bird (pet) from a section or the common property, and the owner of the relevant section shall be liable for all such costs on an attorney and own client scale as may be incurred in relation to the application.
- 6.7 The provisions of this rule shall also be binding on all owners and occupiers presently keeping animals, reptiles or birds (pets) in their sections with the written consent of the trustees, with immediate effect from the date upon which these rules come into operation.

## **7 REFUSE DISPOSAL**



- 7.1 An owner or occupier of a section shall deposit his refuse in suitable, strong plastic bags (refuse bags) and in the case of tins or other containers, ensure that they are completely drained before being deposited into a refuse bag, and in case of broken glass, ensure that the glass is securely wrapped in newspaper, before being deposited into a refuse bag.
- 7.2 Should the Body Corporate provide for a cleaning service, Owners and occupiers shall place their refuse bags outside the front doors of their sections, before 08h00 on Mondays to Fridays, or on such days and at such times as notified by the trustees, to enable the caretakers to collect it. Should owners or occupiers miss the collection time, or should the service not be provided for by the Body Corporate, they will be responsible for the placing of their refuse bags in the refuse containers in the refuse area on the ground floor. No refuse shall be collected on Saturdays, Sundays or public holidays, except by special arrangement.
- 7.3 Owners and occupiers shall comply with any recycling program that may be introduced from time to time by the trustees. Owners and occupiers shall comply with any directive issued by the trustees from time to time regarding the disposal of refuse.
- 7.4 Owners and occupiers of sections shall not dispose or permit the disposal of any refuse, waste, or rubbish in any manner other than as stipulated in this rule and directed in terms of hereof.
- 7.5 Owners and occupiers shall not permit any of their possessions or the possessions of any of their family members, visitors, guests, employees or contractors or any refuse for the disposal of which they are responsible, to remain in any entrance or passage, staircase or other part of the common property contrary to these rules.
- 7.6 Owners and occupiers shall not be permitted to dispose of any old appliances, furniture and the like in the refuse area. Owners and occupiers must remove such

items from the premises or arrange to have it removed. No rubble or any other building waste may be disposed of in the refuse containers.

## **8 VEHICLES**

- 8.1 An owner or occupier of a section shall park or stand his vehicle on the parking bay (exclusive use area) owned by him or rented by him.
- 8.2 Owners and occupiers of sections shall comply with the directives imposed from time to time by the trustees regarding parking of furniture removal vehicles and vehicles of contractors delivering materials and equipment, on the premises.
- 8.3 Subject to sub-rules 8.1 and 8.2 above, no owner or occupier of a section shall park or stand any vehicle upon the common property, or permit or allow any vehicle to be parked or stood upon the common property, without the written consent of the trustees.
- 8.4 No owner may park their vehicle in a way which causes obstruction or impedes the movement of vehicles in and out of garages.
- 8.5 No tandem parking at parking bays, garages or anywhere on the common property is permitted. Owners and occupiers of sections shall ensure that their visitors, guests, employees or contractors do not park their vehicles in front of the automatic gates leading to the parking areas or in front of the garages, entrance doors and fire escapes.
- 8.6 Owners and occupiers of sections shall ensure that their vehicles, and the vehicles of their guests, visitors, or contractors, do not drip fuel, oil or brake fluid on to the common property or in any other way deface the common property. Owners shall be held responsible for repairing such defacing, or alternatively be liable for the cost of cleaning and/or removing such spillage as may be deemed necessary by the trustees from time to time in the event of the body corporate repairing same.
- 8.7 Owners and occupiers of sections shall not park their vehicles on the dedicated Visitor Parking Areas;
- 8.8 Visitor parking bays may not be occupied by a visitor for more than 4 consecutive hours without prior arrangement with Security.

- 8.9 Damaged vehicles, vehicles that are not in general use or that are not roadworthy may not be parked on an exclusive use area or on any portion of the common property.
- 8.10 No owner or occupier may store any object other than a roadworthy vehicle in their demarcated parking bays.
- 8.11 No owner or occupier of a section shall be permitted to dismantle or do major repairs to any vehicle or service any vehicle or part of a vehicle in his section, on his exclusive use area or on any portion of the common property. Only emergency repairs to vehicles may be done. No garage/parking area may be used as a workplace.
- 8.12 The trustees may cause a vehicle, which is parked, standing or abandoned on the common property without the trustees' consent or in contravention of these rules, to be removed or towed away, or its wheels to be clamped. The trustees may further determine a reasonable penalty (fine), which is to be paid for the release of a vehicle, to recover the costs of the process.
- 8.13 Parking is subject to the express condition that every vehicle is parked at the vehicle owner's sole risk and responsibility and that no liability shall attach to the body corporate or the trustees for any loss or damage of whatsoever nature, which the owner or any person claiming through him may suffer in consequence of his vehicle having been parked in or on any exclusive use area or any part of the common property.
- 8.14 All vehicles travelling on common property are limited to a speed of 10 kilometres per hour. Owners and occupiers of sections shall observe and obey all signs on the common property and are not to drive their vehicles on the common property in a manner which causes a risk or danger to persons or property, or a nuisance to their persons, in the opinion of the trustees.
- 8.15 No owners or occupiers of sections shall drive a vehicle or allow it to be driven without the driver being properly licensed, as required by law in respect of public roads.

- 8.16 Owners and occupiers of sections shall not create a noise or nuisance through use of their vehicles on the common property and in particular no excessive revving of vehicles is allowed, and no loud music may emanate from a vehicle, and the hooters of vehicles shall not be sounded on the common property or at the gate, other than in emergencies.
- 8.17 Owners and occupiers of sections shall not leave any obstructions to the free flow of pedestrian or vehicular traffic on any part of the common property. In particular access to doors, fire escape, staircases, passages, landings, and stairwells must be kept clear at all times.
- 8.18 No skateboards, roller skates, roller blades, scooters or bicycles shall be stored on the common property or be used in such a way as to cause nuisance.
- 8.19 No person may reside or sleep in any vehicle, or in a garage or parking bay, or on any part of the common property.
- 8.20 Garages and/or parking bays may only be owned by owners of sections, and may only be used by or let to owners or lawful occupiers of residential sections and their visitors or guests.
- 8.21 Owners shall be responsible for the maintenance of their parking bays (exclusive use areas).
- 8.22 The owners of parking bays shall not use the parking bays or permit same to be used in such a manner or for such purpose as is likely to impair the safety, appearance or amenity of other sections or other parts of the common property.
- 8.23 The washing of vehicles is permitted on the premises only in those areas dedicated by the Body Corporate for the washing of vehicles. Arrangements should be made with the Building Manager and/or Security and residents must be mindful of wasteful use of water.
- 8.24 All references to vehicles in this rule are inclusive of motor cycles, but exclude trailers, boats and caravans which are prohibited from being parked anywhere on the premises.

**9 DAMAGES, ALTERATIONS, DEVICES, ADDITIONS AND ATTACHMENTS TO THE COMMON PROPERTY OR TO THE EXTERIOR OF A BUILDING**

- 9.1 An owner of a section or person authorised by him shall not mark, paint, drive nails or screws or the like into, or otherwise damage, or alter, any part of the common property or the exterior of a building, including the exterior of doors and windows, without first obtaining the written consent of the trustees.
- 9.2 Provided that the trustees have first approved the nature and design of the device and the manner of its installation an owner or person authorised by him, notwithstanding sub-rule 9.1, may install:
- 9.2.1 any locking device, safety gate, burglar bars, or other safety device for the protection of his section; or
- 9.2.2 any screen or other device to prevent the entry of animals or insects;
- 9.3 An owner of a section shall not without the prior written consent of the trustees construct to/on, or attach to/on the exterior of the building, the common property or an exclusive use area, any alterations, devices, additions or attachments, inclusive of but not limited to shutters, blinds, awnings, window shield coverings, air-conditioning units, extractors, solar heating systems, shade covers or awnings.
- 9.4 To obtain the written consent of the trustees in terms of sub-rules 9.1, 9.2 or 9.3, the owner of the section shall apply to the trustees in writing and the application shall be accompanied by sufficient plans and specifications that explain the nature, design, shape, size, material, colours and location of installation of the proposed alteration, device, addition or attachment.
- 9.5 The trustees may grant their written consent in terms of sub-rule 9.1, 9.2 or 9.3, or refuse such consent, in which case the trustees must give reasons for their refusal. The trustees may impose conditions when granting their consent. The owner shall comply with the requirements of the trustees regarding the nature, appearance, colour and design of the equipment and the manner and place of its installation.
- 9.6 The trustees' consent for such alterations, devices, additions or attachments may be withdrawn at any time in the event of non-compliance with any imposed conditions. In the event of such withdrawal, the owner shall be responsible for the immediate removal of the object, at his own cost, failing which the trustees may have it removed and hold the owner liable for any costs incurred.

- 9.7 No air-conditioning unit or other type of extractor or installation, including overflow pipes, if approved, may be visible from outside the building, including passages. An owner shall be required to keep his air-conditioning unit or extractor in a state of good repair to the satisfaction of the trustees. Should the trustees not be satisfied with the working order or noise levels of a particular air-conditioning unit or extractor, the owner of such an air-conditioner or extractor shall have it repaired and/or replaced to the satisfaction of the trustees, at the owner's expense who shall have no claim for compensation thereof whatsoever.
- 9.8 As there is a communal TV-satellite system in place, no owner or occupier may install his own television antenna or satellite dish.

## **10 ALTERATIONS AND/OR RENOVATIONS**

- 10.1 Prior to the commencement of any Alterations and/or Renovations by or on behalf of an owner of a section, an owner shall make written application to the trustees for approval, and no work may commence prior to the trustees having approved such in writing.
- 10.2 To obtain the approval of the trustees for Alterations and/or Renovations, the owner shall submit a formal application in writing ("Owner's Application to Effect Alterations and/or Renovations") and provide full details of the Alterations and/or Renovations planned including but not limited to the details of architects and/or contractor to be used for the work.
- 10.3 The application referred to in sub-rule 10.2 shall be accompanied by such plans and documentation as may be required by the trustees.
- 10.4 Upon receipt of the application, the trustees will consider the application and will advise the owner should any further documentation or information be required by them. If considered necessary by the trustees, they may consult an architect, engineer, legal advisor or other professional consultant regarding the proposed Alterations and/or Renovations and the owner may be held liable for the costs incurred.
- 10.5 All Alterations and/or Renovations shall comply with the requirements and/or regulations imposed by the Local Authority from time to time. Where legally required

and/or where deemed necessary by the trustees, copies of plans approved by the Local Authority shall be lodged with the trustees and approved by them prior to commencement of work. Electrical and plumbing plans shall be lodged with the trustees for approval prior to commencement of the work.

- 10.6 The owner shall submit a Structural Engineers Report confirming compliancy to the trustees in respect of all Structural Alterations. In respect of enclosures to patio's or balconies, it shall be compulsory for a double-brick (cavity) wall to be constructed.
- 10.7 No owner may, without the prior written consent and direction of the trustees, install a gas heating or cooking system. Owners shall ensure that any such installation complies with the prevailing legislation pertaining thereto and shall obtain the required compliance certificate at their cost. A copy of the certificate must be provided to the trustees within 5 (five) days of the installation being completed.
- 10.8 The trustees shall perform such acts as are necessary to accomplish the purposes expressed or implied in these rules, which acts shall include, the examination, approval and endorsement of the building plans in respect of Alterations and/or Renovations. The trustees shall also be entitled to:
- 10.8.1 impose a submission fee, scrutiny fee and such further charges as deemed necessary, to consider an application for Alterations and/or Renovations and to scrutinize the building plans;
- 10.8.2 appoint an architect and such advisors as are necessary to scrutinize building plans on their behalf;
- 10.8.3 determine a deposit payable by the owner, to proceed with Alterations and/or Renovations in terms of these rules, which deposit shall be retained by the trustees until completion of the work.
- 10.9 If the trustees are satisfied with the proposed Alterations and/or Renovations they will convey their approval to the owner. The trustees may impose conditions when granting their approval. Before proceeding with the work, the owner shall:
- 10.9.1 arrange the commencement date of the Alterations and/or Renovations with the trustees and the timeframe for completion;
- 10.9.2 pay a deposit to the body corporate, in the amount determined by the trustees;

- 10.9.3 if required in terms of the Act or the management rules, obtain the body corporate's authorisation in respect of the Alterations and/or Renovations.
- 10.10 The deposit determined by the trustees, shall cover any claim/s that the body corporate may have arising from, or in regard to any damage sustained to the building and/or the common property while the said Alterations and/or Renovations are being effected. The deposit shall also cover the charges raised by the trustees in respect of use of the lift, water, electricity, and common property of the body corporate, additional staff costs such as overtime, and any costs incurred by the body corporate in respect of the Alterations and/or Renovations.
- 10.11 A register of all Alterations and/or Renovations shall be retained and updated at all times by the trustees who shall ensure strict compliance by the owner and his architect and contractor or managing agent with the conditions of approval.
- 10.12 The owner shall comply with the following provisions with regard to all Alterations and/or Renovations in terms of this rule:
- 10.12.1 The owner shall comply with the conditions imposed by the trustees or by the body corporate;
- 10.12.2 The owner shall complete the Alterations and/or Renovations within the time limit prescribed by the trustees;
- 10.12.3 The owner shall ensure that qualified architects, builders and structural engineers are appointed in respect of Alterations and/or Renovations and that qualified, licensed and registered tradesmen are appointed especially for plumbing, electrical and waterproofing work;
- 10.12.4 Appropriate insurance must be taken out by the owner or his contractor for the duration of the construction, if required by the trustees. The owner shall make provision for fire prevention and shall ensure that the safety of owners and occupiers are not compromised;
- 10.12.5 The owner shall ensure that the harmonious appearance of the building is not compromised. All doors and windows being installed must conform in outward appearance with the other doors and windows installed in similar positions elsewhere in the building;



- 10.12.6 The owner shall ensure that the structural integrity of the building is not compromised;
- 10.12.7 The owner shall comply with the requirements of the Local Authority and the regulations to the National Building Regulations and Building Standards Act, No. 93 of 1977, as amended and any other relevant legislation and regulations;
- 10.12.8 Any alterations to pipes, wires, cables and ducts shall comply with the requirements of the Local Authority;
- 10.12.9 The residents' lift being completely out of bounds for materials, equipment and contractors. Any exception to this must receive the prior written consent signed by at least 2 (two) trustees;
- 10.12.10 Any work done in pursuance of this rule, must be done during the hours of 08h00 to 16h30 on Mondays to Fridays, but not on Saturdays, Sundays or on public holidays, except in an emergency or with the written consent of at least 2 (two) trustees;
- 10.12.11 The common property must be kept clean, tidy and free of building rubble, which must be removed as work proceeds;
- 10.12.12 The electricity supply and water supply of the body corporate may not be used without the consent of the trustees, who may assess the costs of such usage for the account of the owner;
- 10.12.13 Any work done in pursuance of this rule must be done with the minimum of discomfort, disturbance, obstruction and nuisance to other owners or occupiers;
- 10.12.14 The owner must ensure that his workers and contractors comply with the relevant provisions of this rule;
- 10.12.15 The owner accepts responsibility, and shall be liable to the body corporate (or other owners, as the case may be), for any damage caused by him, his workmen, or contractors, to the common property or to other sections and indemnifies the body corporate against such damage or any claims arising therefrom;
- 10.12.16 In the event of the common property being damaged due to construction, the trustees shall be entitled to appoint an independent contractor to repair the

damages and the trustees may utilise the deposit (if any) to defray the costs of repairs.

10.12.17 Should any work commence before the trustees have granted their consent, or should the scope of work be materially changed, the trustees may instruct an owner to have his contractor stop the work, until permission to continue has been granted by the trustees.

10.13 Upon completion of construction of the Alterations and/or Renovations, the owner must notify the trustees who shall arrange for an inspection, before refunding the deposit to the owner, subject to any deductions that may be made for damages, charges and penalties (fines) in terms of these rules.

10.14 If required in terms of the Act, the owner shall ensure that the Structural Alteration is registered in the Deeds Registry, such as a subdivision, consolidation or extension of a section.

## **11 MAINTENANCE**

11.1 An owner of a section shall:

11.1.1 repair and maintain his section in a state of good repair as required by section 44(1)(c) of the Act;

11.1.2 repair and maintain (including renewal where reasonably necessary) the pipes, wires, cables and ducts situated inside his section and used in connection with the enjoyment of that section only;

11.1.3 repair and maintain the external doors, locks, window frames and the alterations, devices, additions or attachments in respect of his section (referred to in sub-rules 9.1, 9.2 and 9.3);

11.1.4 repair and maintain his exclusive use area in a state of good repair and in a clean and neat condition.

11.2 If an owner:

11.2.1 fails to repair or maintain his section in a state of good repair as required by section 44(1)(c) of the Act, or

- 11.2.2 fails to repair and maintain (including renewal where reasonably necessary) the pipes, wires, cables and ducts situated inside the section and used in connection with the enjoyment of that section only, or
- 11.2.3 fails to repair and maintain any external doors, locks, window frames or any alterations, devices, additions or attachments in respect of his section (referred to in sub-rule 9.1, 9.2 and 9.3);
- 11.2.4 fails to repair and maintain his exclusive use area in a state of good repair and in a clean and neat condition;

and any such failure persists for a period of (14) fourteen days after written notice to repair or maintain given by the trustees or the managing agent on their behalf, the body corporate shall be entitled to remedy the owner's failure and to recover the reasonably cost of doing so from such owner. The costs shall be due and payable by the owner upon demand, and failing which, the costs may be added to the owner's levy statement and the costs may be recovered from the owner in the same manner as applies to arrear levies, together with interest at the rate applicable to levies.

- 11.3 An owner shall replace the window panes of his section at his own costs within 3 (three) days of it being broken, from whatsoever cause. If an owner fails to replace the window panes of his section and any such failure persists for a period of 3 (three) days after written notice to repair or maintain given by the trustees or the managing agent on their behalf, the body corporate shall be entitled to remedy the owner's failure and to recover the reasonably cost of doing so from such owner. Owners shall clean the windows of their sections on a regular basis.
- 11.4 An owner or occupier of a section shall not allow any part of his section to become unsanitary or accumulated with rubbish, a danger to health or otherwise dirty or untidy.
- 11.5 An owner shall ensure that drain pipes in or from his section shall be maintained in a clean and unobstructed state. If the drains become dirty or blocked the body corporate may have it cleaned at the owner's expense.
- 11.6 An owner shall ensure that the water closets and lavatories are only used for its ordinary purpose, and no sweepings, rubbish, sanitary waste, rags or other refuse shall be placed therein. An owner shall be responsible for the costs of clearing such blockages in the

main drainage or waste system of the building caused by the misuse of water closets and lavatories in his section.

## **12 ACCESS TO SECTIONS AND EXCLUSIVE USE AREAS**

- 12.1 An owner or occupier shall permit any person authorized in writing by the body corporate, at all reasonable hours on notice (except in case of emergency, when no notice shall be required), to enter his section or exclusive use area for the purposes of inspecting it and maintaining, repairing or renewing pipes, wires, cables and ducts existing in the section and capable of being used in connection with the enjoyment of any other section or common property, or for the purposes of ensuring that the provisions of the Act and the rules are being observed.
- 12.2 The owners of garages and parking bays shall permit any person authorized in writing by the body corporate access to same for any purpose reasonably required in terms of the Act and rules.

## **13 APPEARANCE FROM OUTSIDE**

- 13.1 An owner or occupier of a section shall not place, store or do anything in a section, on an exclusive use area or on any part of the common property, including on a balcony which in the opinion of the trustees is aesthetically displeasing or undesirable when viewed from the outside of the section.
- 13.2 Owners and occupiers shall ensure that sections are provided with adequate curtaining and linings or blinds at all times and within 10 (ten) days of taking occupation. All linings to curtains, when viewed from the outside, must be white or cream in colour. Only white, cream, beige, silver or light grey coloured blinds are permitted.
- 13.3 No owners or occupiers may, without the prior written consent of the trustees, place, store or leave any object on any part of the common property, including walkways, stairwells, gardens and exclusive use areas, or may allow or permit it to be so placed, stored or left where it is visible from the exterior of the building. The trustees shall have the right to have such objects removed should they deem it necessary, at their sole discretion, and at the risk and expense of the owner of the object/s.

## **14 SIGNS AND NOTICES**

- 14.1 No owner or occupier of a section shall place or shall permit an estate agent or other person to place any sign, notice, flag, billboard, or advertisement of any kind whatsoever in a section, or on an exclusive use area or on any part of the common property where it is visible from the outside of the building without the written consent of the trustees first having been obtained. The trustees may impose any reasonable conditions when granting their consent.
- 14.2 Any external signage to the building must be in accordance with the local authority approved signage requirements.
- 14.3 The trustees may from time to time issue directives to be complied with by owners and occupiers of sections and their appointed estate agents in respect of the erection of acceptable advertising board/s, and to control reasonable and secure access to the common property by estate agents and potential purchasers.

## **15 LITTERING**

- 15.1 No owner or occupier of a section shall deposit, throw, or permit or allow to be deposited or thrown, on any balcony, exclusive use area or on any part of the common property any rubbish including dirt, cigarette butts, food scraps, wrappers, empty cartons, plastic bags, fruit peels, news or magazine print or any other litter whatsoever.
- 15.2 In particular, an owner or occupier of a section may not throw any material or object or liquid over any balcony or out of any window or on any stairway or part of the common property.
- 15.3 Owners and occupiers shall regularly clear their post-boxes on the ground floor. Unwanted items shall not be disposed of on the common property.

## **16 LAUNDRY**

- 16.1 An owner or occupier of a section shall not, without the consent in writing of the trustees, erect his own washing lines, nor hang any washing or laundry or any other items on any part of a section, the building, an exclusive use area or the common property so as to be visible from outside the building/s or from any other section/s. In particular no clothes, washing, linen or other items may be hung over balcony walls or

in windows, corridors or any other place where it may be visible to the public or to other owners or occupiers.

- 16.2 Carpets and mats shall not be shaken or dusted or beaten over a balcony or through a window.

## **17 STORAGE OF INFLAMMABLE MATERIAL AND OTHER DANGEROUS ACTS**

- 17.1 An owner or occupier of a section shall not store any material, or do or permit or allow to be done, any other act in a building or on the common property which will or may increase the rate of the premium payable by the body corporate on any insurance policy or which will or may lead to the insurance policy of the body corporate being suspended, cancelled or rendered void.
- 17.2 Notwithstanding the provisions of sub-rule 17.1 an owner may have a gas system installed in accordance with the provisions of sub-rule 10.7.

## **18 SALE, LETTING, OCCUPANCY, USE OF SECTIONS AND RELATED MATTERS**

- 18.1 An owner shall notify the trustees and managing agent forthwith in writing of any change of ownership in, or occupation of, his section, or of any change in membership/shareholding or beneficiaries of any close corporation/company/trust which is the registered owner, and of any other dealing affecting his section.
- 18.2 Within 7 (seven) days of concluding a sale agreement of a unit, the owner shall provide the trustees with the following information and any further information or documentation required by the trustees:
- 18.2.1 the new contact details of the seller;
  - 18.2.2 the details and contact details of the purchaser;
  - 18.2.3 the envisaged date of occupation;
  - 18.2.4 the number of persons who will occupy the section; and
  - 18.2.5 acknowledgement of receipt by the purchaser of a copy of these rules.
- 18.3 An owner shall provide the purchaser of his unit with a copy of these rules and where applicable, shall ensure that his estate agent, hand a copy of these rules to the purchaser of his unit.

- 18.4 Within 7 (seven) days of entering into a lease agreement in respect of a unit, and subsequently should any such details change, the owner shall provide the trustees with the following information and any further information or documentation required by the trustees to enable them to keep a register of leases:
- 18.4.1 the details and contact details of the owner (lessor);
  - 18.4.2 the details and contact details of the lessee;
  - 18.4.3 the date of commencement of the lease and the duration of the lease;
  - 18.4.4 the number of persons who will occupy the section; and
  - 18.4.5 acknowledgement of receipt by the lessee of a copy of these rules.
- 18.5 All lessees of sections and other persons granted rights of occupancy by any owner of the relevant section are obliged to comply with these rules, notwithstanding any provision to the contrary contained in, or the absence of provisions, in any lease or any grant of rights of occupancy.
- 18.6 In order to retain the residential nature of the building, an owner letting his section shall do so for a minimum period of 6 (six months). Should an owner wish to deviate from this rule, prior permission will need to be granted by the trustees in writing.
- 18.7 A complete copy of these rules must accompany the lease agreement and must be incorporated into the lease agreement as an annexure thereto. The lease agreement must stipulate that the agreement may be terminated by the owner (lessor) upon breach of these rules by the lessee or occupiers of his section and that the breach of these rules shall automatically constitute a breach of the lease agreement, and will entitle the owner to terminate the lease agreement with immediate effect.
- 18.8 The number of persons, including children, who may reside in a section shall not exceed 2 (two) persons per bedroom of the section. With the prior written consent of the trustees, which may not be unreasonably withheld, additional persons may be allowed to reside in a section temporarily, but not for a period exceeding 21 (twenty one) days at a time and not for an aggregate period of more than 45 (forty five) days in any calendar year.
- 18.9 An owner of a section shall not contravene, or permit the contravention, of any law, by-law, ordinance, proclamation or statutory regulation, or the conditions of any licence,

relating to or affecting the occupation of the building or the common property, or the carrying on of business in the building, or so contravene or permit the contravention of the conditions of title applicable to his section or any other section or to his exclusive use area or any other exclusive use area.

- 18.10 An owner or occupier shall use his section for residential purposes only. No section, exclusive area or common property may be used for business purposes without the written consent of a part of the owners in terms of section 44(1)(g) of the Act and with the approval of the Local Authority.
- 18.11 No auction, or similar sale or exhibition, shall be held in a section or on the common property, without the prior written consent of the trustees.
- 18.12 No person may reside in a section, exclusive use area or other part of the common property, other than a section intended for residential purposes.

## **19 ERADICATION OF PESTS**

An owner of a section shall keep his section free of rats, mice, lice, cockroaches, white ants, borer and other wood destroying insects and to this end shall permit the trustees, the managing agent, and their duly authorised agents or employees, to enter upon his section from time to time for the purpose of inspecting the section and taking such action as may be reasonably necessary to eradicate any such pests. The costs of the inspection, eradicating any such pests as may be found within the section, replacement of any woodwork or other material forming part of such section that may be damaged by any such pests shall be borne by the owner of the section concerned.

## **20 NOISE AND NUISANCE**

- 20.1 No owner or occupier of a section shall cause or permit to be caused a disturbance by shouting, screaming or making any other loud or persistent noise or sound, including amplified noise or sound, or shall use any offensive, obscene, injurious or unbecoming language. Noisy behaviour on balconies at any time, day or night is not permitted.
- 20.2 Excessive noise which has not been sanctioned by the trustees is not permitted. No unreasonable noise is permitted on the common property. It is expected that any resident called upon to moderate such noise shall respond immediately and reasonably



to such a request. The trustees have the right and the responsibility to investigate a disturbance at any section or common property and if necessary to request the removal of any disruptive elements.

- 20.3 The use of power tools, hammers and other electrical equipment is restricted to between 08h00 to 20h00 on weekdays.
- 20.4 All radios, televisions, stereo systems and other appliances emitting sound must be kept at audio levels, which are reasonable, in the discretion of the trustees, at all times.
- 20.5 Owners and occupiers of sections shall daily specifically between the hours of 22h00 and 07h00 maintain quietness in their sections and on the common property. On weekends or public holidays no undue noise or disturbance may be caused at any time of the day.
- 20.6 An owner or occupier of a section shall not use his section, exclusive use area or the common property or permit it to be used in such a manner or for such purpose as shall cause a nuisance to any other owner or occupier of a section or an unreasonable invasion of his privacy.
- 20.7 The owner or occupier is responsible for the conduct of his children and of his visitors and guests, and their children, and shall ensure that their number and conduct is not such as to disturb, inconvenience, or unduly interfere with other persons utilizing the common property.
- 20.8 Unless used with earphones, no radios or other equipment or instruments emitting sound or music, may be used on the common property.
- 20.9 Hobbies and other activities which cause undue or disturbing noise are not permitted.
- 20.10 No owner or occupier shall allow any offensive odours to permeate from his section which may impact the common property or neighbours which is unreasonable, in the sole discretion of the trustees.

## **21 CHILDREN AND GAMES**

- 21.1 Owners and occupiers of sections are responsible for the conduct of their children and the children of their visitors or guests, and shall at all times supervise their children and the children of their visitors and guests to ensure that they do not cause damages to

the common property and to prevent them from causing a noise, nuisance or disturbance to other owners or occupiers of sections or an invasion of their privacy.

- 21.2 The trustees may recover the costs of repairs of damages to the common property caused by children, from the relevant owner of the section.
- 21.3 No games including ball games or other recreational activities are allowed on the common property.
- 21.4 The body corporate accepts no responsibility or liability for children and their actions in the common property.

## **22 USE OF THE COMMON PROPERTY**

- 22.1 An owner or occupier of a section shall use and enjoy the common property in such a manner as not unreasonably to interfere with the use and enjoyment thereof by other owners and occupiers of sections or other persons lawfully on the premises.
- 22.2 Owners and occupiers of sections must adhere to the displayed warning signs and conditions imposed by the trustees regarding the use of the lifts, and shall not exceed the maximum number of persons or weight limit when using the lift. No person shall in any way overload the lifts or otherwise damage the lift mechanism or the interior thereof.
- 22.3 Owners and occupiers of sections shall adhere to the following restrictions and shall ensure that their children adhere to the following restrictions:
  - 22.3.1 No firearm may be discharged in a section, or on an exclusive use area, or on any part of the common property, except under such circumstances which would reasonably justify the use of a firearm for self-defence and related purposes;
  - 22.3.2 No pellet guns may be discharged on the common property;
  - 22.3.3 No stones or solid objects may be thrown or propelled on the common property or from any section or exclusive use area;
  - 22.3.4 No skateboards, roller skates, roller blades, quad bikes, carts or scooters may be used on the common property. Motorcycles and bicycles may not be driven or used on the common property other than for the purpose of normal ingress to, and egress from, the premises;

- 22.3.5 No ball games may be played on the common property;
- 22.3.6 No explosives, crackers, fireworks or items of similar nature may at any time be exploded, lit or operated on the common property.
- 22.4 No auction, fete, jumble sale or exhibition may be held in a section or on the common property, without the written consent of the trustees.
- 22.5 No owner or occupier shall erect any tent or other temporary structure on the common property or on an exclusive use area. Owners and occupiers of sections shall not store or leave any item or article on the common property without the written consent of the trustees.
- 22.6 No live animal or poultry may be slaughtered in a section, or on an exclusive use area, or on any part of the common property.
- 22.7 No alcoholic beverages may be brought to or consumed on the common property.
- 22.8 Private braai equipment may only be used in the Common Property areas if provision has been made for a "braai area" and all such equipment must be removed from the Common Property once the braai has been completed.

## **23 GARDENS**

- 23.1 No owner or occupier may cut, prune or remove any tree or plant on the common property, except with the prior written consent of the trustees.
- 23.2 An owner or occupier of a section shall not plant any trees, shrubs or plants on the common property, without the consent of the trustees.

## **24 USE OF BALCONIES**

- 24.1 No climbing is permitted on or onto any of the balconies, onto any of the roofs, or over any gate, fence or wall.
- 24.2 No object or liquid is to be dropped, thrown or projected from the balcony or window of any section.
- 24.3 Only garden/patio furniture and small pot plants may be stored on balconies. Pot plants must be of such a nature not to endanger the structure of the building
- 24.4 Owners and occupiers of sections are not permitted to braai on their stoeps and balconies. No wood fires are permitted on stoeps or balconies and owners and

occupiers of sections are not permitted to use Weber type braais, gas- or electrical braai devices, charcoal burners or any form of braais on their stoeps or balconies.

- 24.5 The drainage pipe of the balconies shall be of a sufficient diameter to allow for proper drainage and shall be in conformance with the drainage pipes of the other balconies.
- 24.6 Any cleaning of the balconies and/or windows must be done in such a manner so as not to cause any water or other liquids to fall onto a balcony or section below. Owners and occupiers washing the balconies and/or windows must ensure that they allow only the absolute minimum amount of water to be used and that such dirty water is mopped up immediately to prevent it dripping from the balcony drainage pipe and/or from windows.

## **25 NON-SMOKING AREA**

The common property in respect of the building, including the foyer, lifts and passages, is designated as a non-smoking area.

## **26 SECURITY AND ACCESS CONTROL**

- 26.1 Owners and occupiers shall ensure that the security and safety of all owners and occupiers and their property are preserved at all times, and in particular must:
- 26.1.1 ensure that upon entering or leaving the building or premises, that all security doors and gates are properly closed; and
- 26.1.2 ensure that security doors and gates are never opened for persons other than their known visitors or such persons as may be authorised by an owner or occupier.
- 26.2 Access security discs and remotes shall be issued to owners and occupiers only. Owners shall be held responsible for the loss and replacement of keys or locks and the cost of changing of security codes, tags or keys lost or compromised by them or by the occupiers of their sections. This may include the cost of replacing the remotes and tags in respect of all sections in the event that is deemed necessary to replace same as a consequence of the remotes or tags of an owner or occupier being misplaced. Owners shall ensure that their tenants return all remotes and keys before vacating their sections and must notify the managing agent immediately should such items not be returned.

Owners must report any lost remotes or discs to a trustee immediately on becoming aware thereof.

- 26.3 Owners and occupiers shall not tamper with the security installation. All replacements or repairs of the intercom handsets inside the sections will be for the account of the relevant owner.
- 26.4 Visitors to the building shall only be admitted by the resident being visited.
- 26.5 Under no circumstances must strangers be allowed to enter the building without authorisation from a resident.
- 26.6 Access to the roof is forbidden without the consent or permission of a trustee.

## **27 DELIVERY OR REMOVAL OF FURNITURE OR GOODS**

- 27.1 Owners or occupiers of sections shall advise the trustees or building manager in advance of any deliveries or removals of any furniture, building materials, tools, appliances and all other goods so that the necessary arrangements can be made, including the installation of the protective blanket in the service lift in preparation for such move.
- 27.2 Any owner or occupier of a section shall comply with the conditions imposed by the trustees for the delivery or removal of goods or materials from a section.
- 27.3 Owners and occupiers and visitors are prohibited from tampering with the automatic gates, foyer and lift doors or any other part of the common property. The automated foyer entrance glass doors are not to be forced open under any circumstances. In the event of these doors malfunctioning, the rear entrance door is to be utilised.
- 27.4 Owners and occupiers are to utilise the rear entrance for the delivery or removal of furniture, household appliances and the delivery or removal of all building materials and equipment and for the access and exit of all building contractors and tradesman.
- 27.5 After furniture or goods are delivered or removed from any section, the trustees or building manager will be entitled to inspect the passageways, stairwells, lifts and any other part of the common property accessed by the movers, in order to assess any damage. If any damage is noticed the trustees shall issue a written instruction to the owner or occupier to effect repairs to the damaged area. If such repairs are not completed to the satisfaction of the trustees within the time stipulated in such notice,

the trustees shall have the repairs done at the expense of the owners or occupiers of the section concerned. Certain areas of common property such as the lifts and foyer doors may require repairing by specialists and in this case the trustees shall ensure that the repair work is carried out, but such costs will be for the owner of the section.

## **28 BODY CORPORATE EMPLOYED STAFF**

- 28.1 Any staff member employed by the body corporate is responsible to the trustees only. No owner or tenant is to instruct the staff member in any way concerning his performance. All such matters are to be directed in writing through the trustees.
- 28.2 No owner or occupant is entitled to make use of their services during their prevailing working hours, which may vary from time to time at the discretion of the trustees. Any private work which individual residents require shall be done in the staff member's own private time and at a remuneration mutually agreed upon between the staff member and such owner or occupier.
- 28.3 Any overtime pay due to a staff member as a direct result of any private work which results in the said staff member having to work overtime as a consequence thereof, shall be for the owner's account.

## **29 DOMESTIC EMPLOYEES**

- 29.1 An owner or occupier shall be responsible for the conduct of his domestic- or other employees, and of any person visiting them. The trustees may at their discretion fine owners or occupiers in terms of Rule 33 of these rules for any unreasonable or repetitive disturbance or damage to the common property by their domestic workers.
- 29.2 All persons domestic or other employed of an Owners or occupiers, and of any person visiting them must provide acceptable identification upon commencement of their services and Owners or occupiers are responsible for the behaviour of their employees.
- 29.2.1 Acceptable identification can be secured by completing a Security Identification Form, which is available at from the Managing Agent;
- 29.2.2 Identification forms, upon completion, must be returned to the Managing Agent;

- 29.3 An owner or occupier shall ensure that his domestic employee complies fully with these rules, does not do anything which may constitute a nuisance or danger to any other person and uses all facilities only for the purposes for which they are intended.

### **30 DAMAGES**

- 30.1 In the event of damages being caused to the common property by an owner or occupier of a section or by the family members, guests, visitors, domestic workers or contractors of an owner or occupier, the owner of the section shall be liable to compensate the body corporate for the costs of repairing the damage, which costs shall be due and payable by the owner of the section upon demand, and failing which, the costs may be added to the owner's levy statement and the costs may be recovered from the owner in the same manner as applies to arrear levies, together with interest at the rate applicable to arrear levies.
- 30.2 It shall be the owner's responsibility to effect his own insurance in respect of the contents of his section/s and in respect of his vehicle.

### **31 FIRE-FIGHTING EQUIPMENT**

Owners and occupiers of sections shall not tamper with or damage, or cause or permit to be tampered with or damage, any fire hose, reel or extinguisher in any manner, or use it or for any purpose other than as permitted or prescribed by the fire regulations of the relevant Local Authority.

## **32 RISK**

Any person present on the premises or the common property or using any of the services or facilities of the body corporate does so entirely at his own risk. No person shall have any claim against the body corporate of whatsoever nature arising from such use, nor for anything which may befall any person during the course of such use, whether caused by human or animal agency, natural phenomena or otherwise. The body corporate shall not be liable for any injury, loss or damage of any description that any person may sustain, physically or to his property directly or indirectly, in or about the common property or on the premises, nor for any act done or for any neglect on the part of the body corporate or any of its employees, agents or contractors.

## **33 BREACH**

33.1 Should an owner or occupier of a section commit any breach of these rules and fail to commence to remedy that breach within a period of 7 (seven) days after the receipt of written notice to that effect and complete the remedying of such breach within a reasonable time, then the trustees shall be entitled on behalf of the body corporate, without prejudice to any other rights or remedies which the trustees or the body corporate or any other owner may have in law or in terms of the Act, the management rules and these rules, including the right to claim damages and the right to impose penalties (fines):

- 33.1.1 to enter upon the section and/or exclusive use area and/or the common property to take such action as may be reasonably required to remedy the breach and the owner of the section shall be liable to the body corporate for all costs so incurred, which costs shall be due and payable upon demand, and failing which the costs may be added to the owner's levy statement and the costs may be recovered from the owner in the same manner as applies to arrear levies, together with interest at the rate applicable to levies; and/or
- 33.1.2 to institute proceedings on behalf of the body corporate against such owner and/or occupier of the section in any court of competent jurisdiction for such relief as the trustees may consider necessary; and/or



- 33.1.3 to proceed with arbitration against such owner and/or occupier in terms of the management rules.
- 33.2 The owner of the section shall be liable for and pay all legal costs, including costs as between attorney and client, collection commission, expenses and charges incurred by the body corporate in obtaining the recovery of penalties (fines), costs or any other amounts due and owing by such owner to the body corporate, or in enforcing compliance with the Act, the management rules and these rules.
- 33.3 In the event of any breach of these rules by an occupier of a section or by the family members, guests, visitors, employees or contractors of the owner or occupier of the section, such breach shall be deemed to have been committed by the owner. Without prejudice to the foregoing, the trustees shall be entitled to take or cause to be taken such steps against the person actually committing the breach as they may in their discretion deem fit, with or without proceedings against the owner of the section.

#### **34 LEVIES**

- 34.1 Owners of sections shall pay the ordinary levies due to the body corporate in respect of their sections and the additional levies due to the body corporate in respect of their exclusive use areas, monthly in advance on or before the 1st day of each and every successive month of the financial year. After expiry of a financial year and until owners become liable for levies in respect of the ensuing financial year, owners shall pay levies in the same amounts and in the same instalments: provided that the trustees may, if they consider it necessary and by written notice to the owners, increase the levies due by the owners to take account of the anticipated increased liabilities of the body corporate.
- 34.2 Owners shall be liable for special levies as determined by the trustees, which may be made payable in one sum or by such instalments and at such time or times as the trustees shall think fit.
- 34.3 The managing agent shall send defaulting owners a letter of demand for any outstanding levies not received by the 7th day of a month at the cost of the defaulting owner. Failure to remedy the payment of a levy account with a period stipulated by the

managing agent shall result in the matter being handed over to the body corporate's attorneys.

- 34.4 The owner of the section shall be liable for and pay all legal cost, including costs as between attorney and client, collection commission, expense and charges incurred by the body corporate in obtaining the recovery of arrear levies, or any other arrear amounts due and owing by such owner to the body corporate, or in enforcing compliance with the management rules, the conduct rules or the Act.
- 34.5 The trustees shall be entitled to charge interest on arrear amounts at Prime Rate of Interest plus 2 (two) % in respect of ordinary and additional levies, which interest shall commence from the 2nd day of each month.

### **35 IMPOSITION OF PENALTIES (FINES)**

- 35.1 If the conduct of an owner, lessee or occupier of a section or his family members, visitors, guests, employees or contractors constitute/s a nuisance in the opinion of the trustees, or a contravention of a provision of the Act, the management rules or these rules, the trustees may:
- 35.1.1 by written notice inform the owner and occupier (if applicable) of the nuisance or contravention and warn the owner and occupier (if applicable) that if he or they fail/s to remedy the contravention and/or if he or they persist/s in such conduct or contravention, a fine will be imposed on the owner of the section; and
- 35.1.2 if an owner or occupier (if applicable) fails to remedy the contravention or persist in the conduct or contravention, notwithstanding 7 (seven) days' written notice given by the trustees in terms of sub-rule 35.1.1, the trustees may by written notice impose a fine on the owner, which written notice shall state the reasons for the imposition of the fine; or
- 35.1.3 by written notice and without warning impose a summary fine on the owner of the section, which written notice shall state the reasons for the imposition of the summary fine.
- 35.2 The fine or summary fine imposed under sub-rule 35.1.2 or 35.1.3 above, becomes due on the date of the written notice and must be paid within 30 (thirty) days from the date

of the written notice. The fine shall be added to the owner's levy statement and shall be recovered from the owner of the section in the same manner as applies to arrear levies, together with interest at the rate applicable to arrear levies. An owner shall be liable for and pay all legal costs, including costs as between attorney and client, collection commission, expenses and charges incurred by the body corporate in obtaining the recovery of arrear levies, or any other arrear amounts due and owing by such owner to the body corporate, or in enforcing compliance with the management rules, these rules or the Act.

- 35.3 A penalty (fine) may be imposed in respect of each separate offence/contravention. In the event of a continuing offence/contravention, any person subject to these rules who contravenes or fails to comply with any of the provisions, or any condition or directive given in terms thereof, shall be deemed to be guilty of a separate offence for every 24 hours or part thereof during which such offence/contravention continues and shall be liable in respect of each such separate offence/contravention.
- 35.4 The trustees shall from time to time determine the amounts of penalties (fines) in respect of the various contraventions and in respect of first and successive contraventions, subject to the directions that may be given or the restrictions that may be imposed by the owners in a general meeting.
- 35.5 An owner of a section may within 30 (thirty) days of the date of the written notice referred to in sub-rule 35.1.2 or sub-rule 35.1.3, submit an objection against the fine imposed with the trustees.
- 35.6 Upon receipt of the objection, the trustees may:
- 35.6.1 withdraw or reduce the fine; or
  - 35.6.2 schedule a trustees' meeting (hearing) for the purpose of considering the objection and invite the owner of the section to attend.
- 35.7 At the trustees' meeting (hearing) referred to in sub-rule 35.6.2 above, the owner shall have the right to be present and to be assisted or represented by another person and to:
- 35.7.1 give evidence;
  - 35.7.2 be heard;

- 35.7.3 call witnesses;
- 35.7.4 cross-examine any person called as a witness in support of the charge and to have access to documents produced in evidence; and
- 35.7.5 produce mitigating factors.
- 35.8 If the owner fails to attend the hearing referred to in sub-rule, the trustees may continue with the proceedings in the absence of the owner. Upon the conclusion of the hearing, the trustees shall deliberate the evidence and if so resolved, they may:
  - 35.8.1 uphold the fine; or 35.6.2
  - 35.8.2 withdraw or reduce the fine.
- 35.9 Should the trustees receive a written or verbal complaint regarding the breach of these rules in which the complainant indicates:
  - 35.9.1 the nature of the breach;
  - 35.9.2 the identity of the owner or occupier alleged to have committed the breach ('the allegee');
  - 35.9.3 the date or approximate date of the breach;
  - 35.9.4 his own identity; and
  - 35.9.5 any other person(s) who witnessed the breach,

the trustees shall cause a letter to be addressed to the allegee indicating the particulars of the breach as required above.
- 35.10 Should a complaint be made by or against a trustee in terms of any rule, such trustee shall be precluded from considering the complaint at the hearing and taking part in any ruling, finding or the imposition of a penalty (fine). Such trustee may however present his case at the meeting prior to voting.

## **36 NOTICES**

- 36.1 Any notice to an owner or occupier of a section in terms of these rules, will be regarded as having been properly given if such notice is:
  - 36.1.1 delivered to the owner or occupier by hand, in which event it shall be regarded as having been received on delivery;

- 36.1.2 delivered by registered post to the owner of the section to his domicilium citandi et executandi or to the occupier to the address of his section, in which event it shall be regarded as having been received on the 4th day after the date of postage; or
- 36.1.3 delivered to the owner or occupier by fax or e-mail to the fax number or e-mail address of the owner or occupier, in which event it shall be regarded as having been received on the date of transmission.
- 36.2 In all instances where a notice is sent to the occupier of a section in terms of these rules, a copy of the notice shall also be sent to the owner of the relevant section.

### **37 WRITTEN CONSENT**

- 37.1 Whenever the written consent of the trustees is required in terms of these rules, application for such consent must be made in writing and the applicant shall furnish the trustees with all the details and documents required by them. The written consent of the trustees in terms of these rules or the withdrawal thereof shall be in such format as decided from time to time by them, signed by 2 (two) trustees. The trustees may attach reasonable conditions to their consent and they may summarily withdraw their consent, if any condition imposed is not complied with. The trustees shall only grant their consent after a resolution has been adopted by them, either at a trustees' meeting or in writing.
- 37.2 If there is a dispute between an owner or occupier and the trustees as to whether the trustees have unreasonably withheld their consent, the onus shall be on the owner or occupier to prove that the trustees have withheld consent or approval unreasonably.

### **38 RELAXATION OF RULES**

No indulgence or relaxation in respect of these rules shall constitute a waiver or consent or prevent their enforcement by the trustees at any time.