

**CONSTITUTION OF FRANS PARK
HOME OWNER ASSOCIATION**

1. **NAME:**
The name of the Association is the FRANS PARK HOME OWNERS ASSOCIATION.
2. **DEFINITIONS:**
In this constitution, unless the context indicates the contrary:
 - 2.1 "The Association" shall mean FRANS PARK HOME OWNERS ASSOCIATION.
 - 2.2 "The Township Area" shall mean ERVEN 15541 to 15572 Brackenfell, being the subdivided portions of Erf 14571 Brackenfell, both inclusive.
 - 2.3 "Person" shall include a company, club, trust, partnership or other association of persons entitled by law to hold title to immovable property.
 - 2.4 "Member" shall mean a member as defined in clause 4 hereof.
 - 2.5 "Council" shall mean the Council of the City of Cape Town.
 - 2.6 "Occupant" shall mean the owner of a property or any other legal occupant in charge thereof such as a tenant.
 - 2.7 Other definitions as required by circumstances.
3. **OBJECTS:**
The objects of the Association are to:
 - 3.1 promote and enforce standards, not the least of which should be the congenial atmosphere in the Township Area in such a way that members may derive the maximum collective benefit therefrom;
 - 3.2 promote and enforce acceptable aesthetic, environmental and architectural styles and design criteria for the Township Area in order to achieve the harmonious development thereof;
 - 3.3 control and maintain the common services and land, and in particular the private road and its reserve area; and
 - 3.4 to acquire the necessary finances from members to attain its set objectives, by the implementation of monthly levies;
 - 3.5 to purchase water in bulk from the relevant authority and to charge each owner or occupant for the usage by that particular erf and metered by the Association;
 - 3.6 to employ a worker or workers to attend to the removal of refuse and to attend to any other tasks as the committee may see it.
 - 3.7 Lay down such conduct rules as the association may find necessary to harmonise the different needs and aspirations of all owners. The inaugural set of rules as compiled by the developer and contained in Annexure "A" hereto will be in force until replaced or repealed by the Association;

and the Association shall have the powers to do such acts as are necessary to accomplish these objects.
4. **MEMBERS:**
 - 4.1 Membership of the Association shall be evidenced by registered ownership in the Deeds Registry, Cape Town, of one or more erven in the Township Area;
 - 4.2 Upon registration of ownership of the erf in the name of a purchaser, membership of the Association by such purchaser shall be automatic and obligatory and incumbents shall be obliged to comply with the provisions of this constitution;

- 4.3 No person shall be entitled to cease to be a member of the Association while remaining the registered owner of an erf in the Township Area;
- 4.4 Membership shall be transferred by the registration of a deed of transfer in the Deeds Registry, Cape Town, passing transfer of one or more erven in the Township Area from the previous member to the new member.

5. **CESSATION OF MEMBERSHIP:**

No member ceasing to be a member of the Association for any reason shall, (nor shall any such member's executor, curators, trustees or liquidators) have any claim upon or interest in the funds or other property of the Association, but this clause shall be without prejudice to the rights of the Association to claim from such member or his estate any arrear levies or other sums due from him to the Association at the time of his ceasing to be a member.

6. **GENERAL MEETINGS:**

General Meetings of the Association shall take place at such place(s) as shall be determined by the Executive Committee from time to time.

No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business. The quorum necessary for the holding of any general meeting shall be such of the Members entitled to vote, as together for the time being, represent one half of the total votes of all Members of the Association entitled to vote, for the time being save that not less than three (3) members must be personally present.

If within half an hour from the time appointed for the holding of a general meeting a quorum is not present, the meeting, if convened on the requisition of members, shall be dissolved, and in any other case it shall stand adjourned to the same day in the next week, at the same place and time, or at such other place as the Chairman of the meeting shall appoint, and if at such adjourned meeting a quorum is not present within half an hour from the time appointed for holding the meeting, the members present shall be a quorum.

7. **POWERS:**

- 7.1 The management and administration of the Association shall vest in an executive committee consisting of FIVE (5) members elected annually by members at a general meeting of members, which committee may exercise all such powers of the Association and do, on behalf of the Association, all such acts as may be exercised and done by the Association itself.
- 7.2 Without in any way limiting the generality of the foregoing, such powers shall include, but not be limited to, the following:
- 7.2.1 the determination of what constitutes appropriate standards, designs and styles as set out in clauses 3.1 and 3.2 and the maintenance of properties in the Township Area;
- 7.2.2 the performance of such acts as are necessary to accomplish the objects expressed or implied herein;
- 7.2.3 and others, regarding inter alia the operation of a banking account.

8. **BUILDING, ARCHITECTURAL AND DESIGN REQUIREMENTS:**

8.1 The Association shall have the power to:

- 8.1.1 frame and enforce conditions on members in order to harmonise the architectural style and design criteria of, and the materials to be used in all buildings erected or to be erected in the Township Area;
- 8.1.2 do such acts as are necessary to accomplish the purposes expressed or implied herein, which acts shall include, inter alia, the examination and approval or refusal of building plans, whether such be for new constructions, renovations, alterations or additions;

- 8.1.3 compel members to comply with its requirements, and failing compliance therewith, to take steps to remedy such non-compliance at the cost of such member; and without in any way limiting the generality of the foregoing, to call upon a member in writing to remove or alter within a specified period, anything erected contrary to the requirements laid down pursuant thereto and failing which, to apply to Court for any appropriate order; and
- 8.1.4 to appoint professional advisors, e.g. an architect to scrutinise all plans to ensure that the necessary architectural controls have been met.
- 8.2 Members shall be obliged to submit all building plans for new constructions, renovations, alterations or additions to the association for examination and approval prior to the submission of such plans to the Local Authority for approval and the association shall make known its decision to the applicant within one (1) week of the plan being submitted to it.
- 8.3 No member shall be entitled to dump material or goods on any erf not registered in the name of the member and shall be liable for payment of the cost of rectifying the damage or removal of the material or goods. (Refuse shall be placed in the appointed place on removal days.)
9. **OTHER PROFESSIONAL OFFICERS:**
Save as specifically provided otherwise in this Constitution, the executive committee shall at all times have the rights to engage, on behalf of the Association, the services of an Accountant, an Auditor, an Attorney, an Advocate, an Architect, an Engineer, and/or any other person, whatsoever, whether a member of a profession or not, for any reasons considered necessary by the Trustee committee in its discretion and on such terms as the Trustee committee may decide, subject to the provisions of these presents, provided that any expenditure incurred in respect of the above, shall not exceed 5 % (five percent) of the total annual levy for the year in question unless authorised by a General Meeting.
10. **ACCOUNTS:**
The Association in general meeting or the executive committee may from time to time make reasonable conditions and regulations as to the time and manner of the inspection of the accounts and books of the Association, or any of them, and subject to such conditions and regulations, the accounts and books of the Association shall be open to the inspection of members at all reasonable times during normal business hours.

At each Annual General Meeting the executive committee shall lay before the Association a proper income and expenditure account for the immediately preceding financial year of the Association, or in the first account, for the period since the incorporation of the Association, together with a proper balance sheet made up as at the last financial year end of the Association. Every such balance sheet shall be accompanied by reports of the executive committee and there shall be attached to the notice sent to members convening each Annual General Meeting, copies of such accounts and balance sheet and of any other documents required by law to accompany same.
11. **LEVIES AND PLAN SCRUTINY FEES:**
- 11.1 The committee shall from time to time, impose levies upon the members for the purpose of meeting all the expenses which the Association has incurred, or to which the committee reasonably anticipates the Association will be put by way of charges payable by the Association in respect of its goals, and/or for the services rendered to it, and/or for payment of all expenses necessary or reasonably incurred in connection with the management of the Association, and the Association's affairs, and/or any other expenditure of whatsoever nature incurred in connection with the Association. **No levies are payable for unregistered erven not yet transferred from mother Erf 14571, unless occupied before registration.**

In calculating levies the committee shall take into account income, if any, earned by the Association.
- 11.2 The committee shall estimate the amount which shall be required by the Association to meet the expenses during each year, together with such estimated deficiency, if any, as shall result from the preceding year, and shall make a levy upon the members equal as nearly as is reasonably practical to such estimated amount. The committee may include in such levies an amount to be held in reserve to meet anticipated future expenditure not of an annual nature.

- 11.3 Notwithstanding the foregoing, the total amount of levies imposed upon a member in any year shall not exceed R200,00 (Two Hundred Rand) for the first year and be increased annually by no more than 10 % (ten) percent without the sanction of a special resolution of the Association (and no members shall be entitled to vote unreasonably against a resolution proposing an increase).
- 11.4 The committee will charge a scrutiny fee for each member applying for the approval of a building plan which fee will initially be R200,00 per plan lodged. If a plan is not approved of, each re-lodgement for approval must be accompanied by a further fee of R100,00. The committee will have the right to increase the fee by up to 15 % (fifteen) percent per year.
12. **POSITION OF DEVELOPER:**
Notwithstanding anything herein contained the Developer will ipso facto be a member of the Association and be entitled to 1 (one) vote for every unregistered Township erf until such time as all erven have been registered.
13. **ELECTRICITY AND WATER:**
- 13.1 Each house will be fitted with an approved electrical meter that works on the prepaid coupon system.
- 13.2 Although each house will also have a separate water meter the council will only meter water at a common meter for the whole scheme which means that the Association will have to read each individual meter and recover the usage from each occupant.
- 13.3 In the event of any occupant not having paid an account rendered to him or her by the Association for the usage of water for a period, and such occupant failing to pay the amount despite having received a final notice giving him or her 7 days in which to pay the outstanding amount, the Association will have the right to cut off all water supply to such occupant.
- 13.4 All street lamps will be on a separate meter as well as the irrigation of the road reserve and the association will recover the cost of these expenses as part of the monthly levy.
14. **OCCUPANTS:**
- 14.1 Unless an owner gives due notice to the Association that he has let the property or that it is occupied by any person other than himself, the owner will be held responsible for all actions of such person and his or her co-occupiers of the property and also for all water used by such an occupant only if the owner normally have been liable for water used by him.
- 14.2 A tenant or other occupant must prior to them taking occupation accept the terms of this constitution as well as the conduct rules issued thereunder as binding upon them before notice in terms of clause 14.1 will be accepted by the Association.
15. **COUNCIL'S FUNCTIONS:**
- 15.1 Council shall retain the right to intervene in and undertake the functions and activities of the body corporate or to appoint an agent or other person to undertake such business as is necessary to ensure all the above for any period of time and that members of the home owners association shall be responsible for the financial implications of such actions and that all relevant costs shall be borne by all the members jointly and/or separately.
- 15.2 The association shall not amend or in any way alter the conditions contained herein without the prior written consent of the Council.

FRANS PARK

CONDUCT RULES

1. USE OF PREMISES:

- 1.1 Owners shall not use or permit their properties to be used for professional or business activities unless specifically authorised by the committee and then only in compliance with Municipal authorities.
- 1.2 Residents are at all times responsible for the actions of their domestic servants.
- 1.3 Bicycles, skateboards and roller skates must be used with due caution for vehicular traffic and pedestrians.
- 1.4 Pets shall not be permitted on the private road unless they are carried or held on a leash. Residents are responsible for removing the droppings of their pets from such road or the reserve and for repairing any damage caused by them.

2. REFUSE DISPOSAL:

A Resident shall:

- 2.1 Maintain in an hygienic and dry condition a receptacle for refuse in his section.
- 2.2 Ensure that before refuse is placed in such receptacle it is securely wrapped in a plastic bag so that it can be handled by the employee of the Association.
- 2.3 For the purpose of having the refuse collected, place such receptacles within the area and at the times designated by the Committee so that the employee can remove the plastic bag to the municipal collection area.
- 2.4 Not deposit, throw or allow to be deposited or thrown on the private road or its road reserve any rubbish or other litter.
- 2.5 Bins and rubbish must be kept out of sight (courtyard or garage) only to be taken out on the morning of collection.

3. MOTOR VEHICLES:

The speed limit on the private road is 30 k.p.h.

- 3.1 Driving of vehicles on the premises must be within designated speed limits and have regard for the rights of others and especially children.

4. NOISE:

- 4.1 No resident shall play or permit to be played any radio, television set, tape or other recorder, amplifier or any musical instrument in a manner or at a time which causes inconvenience to any other resident.
- 4.2 Committee request restraint in the use of power and other tools which may impinge on the peace of others. Committee will have the right to determine that any noise complained of is excessive and to require that its continuance cease.

5. SELLING OF PROPERTY:

The onus is on the owner who sells his property to provide the purchaser with a copy of these rules at the time the sale is concluded. It will be assumed by the Committee that new owners are in possession of these rules and that they are fully conversant therewith.

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FRANS PARK

GEDRAGREËLS

1. GEbruik VAN PERSEEL

- 1.1 Geen eienaar sal sy eiendom mag gebruik of toelaat dat dit gebruik word vir professionele of sake doeleindes nie tensy spesifieke goedkeuring daarvoor verkry is van die Uitvoerende Komitee op voorwaarde dat dit ook voldoen aan die plaaslike owerheid se vereistes.
- 1.2 Eienaar sal te alle tye verantwoordelik wees vir die optredes van enige bedienendes.
- 1.3 Fietse, skaatsplanke en rolskatse moet met groot omsigtigheid gebruik word en voetgangers en padverkeer in ag neem.
- 1.4 Geen troeteldiere sal op die privaatpad toegelaat word nie tensy hulle op leiband gehou word nie. Inwoners sal verantwoordelik wees om self die diere se keutels te verwyder vanaf die pad of reserve en om alle skade wat hulle mag veroorsaak te herstel.

2. VULLIS VERWYDERING

'n Inwoner sal;

- 2.1 'n Vullishouer, soos voorsien deur die plaaslike owerheid, in 'n higiëniese en droë toestand hou op sy perseel vir die plasing van vullis uit sy erf.
- 2.2 Seker maak, dat voordat vullis in die houer geplaas word, dit stewig in 'n plastieksak toegedraai is sodat dit gehanteer kan word deur die vereniging se werknemer.
- 2.3 Vir die doel van vullisverwydering, die houer plaas binne die area en tyd soos bepaal deur die komitee sodat die werknemer die plastieksakke kan verwyder na die munisipale vullis gebied.
- 2.4 Enige vullis of afval strooi of dit toelaat binne die gebied van die privaatpad nie.
- 2.5 Die vullishouers buite sig hou (in motorhuis of binne hof) en slegs op die aangewese dag na buite neem vir verwydering.

3. MOTORVOERTUIG

Die spoedbeperking op die privaatpad is 30 km p/u.

- 3.1 Voertuie moet binne die spoedgrens bestuur word en bestuurders moet ag gee op die regie van ander en in die besonder waaksaam wees vir kinders.

4. GERAAS

- 4.1 Geen inwoner sal toegelaat word om enige radio, televisie, band of ander spele, klankversterkers of musiekinstrument te speel op so 'n wyse dat dit 'n oorlas of irritasie vir ander inwoners is nie.
- 4.2 Die gebruik van kragtoerusting of gereedskap moet nie inbreuk maak op die rustigheid van die omgewing nie. Die komitee sal die reg hê om te bepaal of geraas waaroor daar gekla word, oormatig is en of die voortgesette gebruike van die instrument beperk moet word al dan nie.

5. VERKOOP VAN EIENDOM

Die verpligting rus op elke eienaar om die koper van sy eiendom te voorsien van 'n afskrif van hierdie reëls ten tye van die verkoping. Die komitee sal aanvaar dat nuwe eienaars in besit is van 'n afskrif van die reëls en dit ten volle verstaan.

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