



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK
MUNISIPALITEIT • UMASIPALA • MUNICIPALITY

Application Number: LU/17279(TP740/2024)

Our File Reference Number: Erf 1684, Franschhoek

Your Reference Number:

Enquiries: Ulrich von Molendorff

Contact No: 021 – 808 8682

Email address: Ulrich.Vonmolendorff@stellenbosch.gov.za

PER E-MAIL: [REDACTED]

Sir

APPLICATION FOR PERMISSION REQUIRED IN TERMS OF SECTION 15(2) OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BYLAW : ERF 1684, FRANSCHHOEK

1. The above application refers.
2. The duly authorised decision maker has decided on the above application as follows.
 - 2.1. That the following application in terms of Section 15(2) of the Stellenbosch Municipal Land Use Planning Bylaw on Erf 1684, Franschhoek for:
 - 2.1.1 a permission required in terms of a previous condition of approval for the La Petite Provence Development in terms of Section 15(2)(l) of the bylaw to approve amendments to the Constitution of the Owners' Association.

BE APPROVED in terms of Section 60 of the said Bylaw and subject to conditions of approval.

- 2.2. The approval is subject to the following conditions imposed in terms of Section 66 of the said Bylaw:
 - 2.2.1 The approval only applies to the proposed application and Constitution in **APPENDIX 1** under consideration and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council or other legislation or Bylaws or Regulations that may be applicable.

2.2.2 The approval granted shall not exempt the applicant from complying with any other legal prescriptions or requirements that might have a bearing on the La Petite Provence Estate.

2.3. The **reasons** for the above decision are as follows:

2.3.1 All proposed amendment to the constitution is predominately of an administrative nature, was adopted by a majority of 51% at an AGM of the HOA and will not affect the municipalities mandate to govern in its area of jurisdiction.

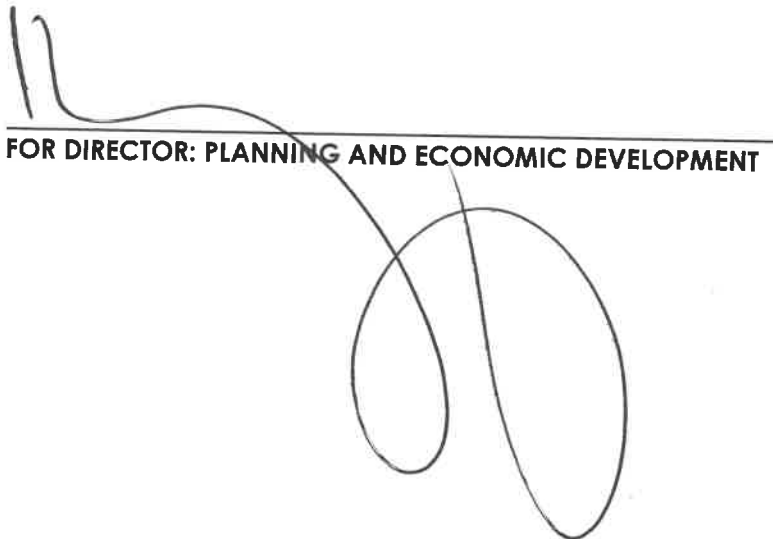
2.4 **Matters to be noted:**

None.

3. You are hereby informed in terms of section 79(2) of the Stellenbosch Municipal Land Use Planning Bylaw of your right to appeal the above decision to the Appeal Authority within 21 days from the date of notification of the above decision. Please note that no late appeals or an extension of time for the submission of appeals are permitted in terms of Section 80(1)(a) of the said By-Law.
4. Appeals must be submitted by completing the required form with the prescribed information to satisfy the requirements of Section 80(2) of the said By-law, failing which the appeal will be invalid in terms of Section 81(1)(b) of the said By-Law.
5. **Appeals must be addressed to the Municipal Manager and submitted to his/ her designated official by means of e-mail at the following address: landuse.appeals@stellenbosch.gov.za**
6. Any party (applicant or other) who lodges an appeal must pay the applicable appeal fee in terms of the approved municipal tariffs and submit the proof of payment together with the appeal. The **LU** Reference number on this correspondence, or the applicable Erf/ Farm Number must be used as the reference for the payment of the appeal fee.
7. The appeal form and approved tariff structure and the banking details for the General Account can be accessed and viewed on the municipal website. For any enquiries the office can be contacted at landuse.appeals@stellenbosch.gov.za or 021- 808 8684.
8. An applicant who lodges an appeal must also adhere to the following requirements stipulated in terms of section 80(3) to (7) of the said By-law:
 - (a) Simultaneously serve the appeal on any person who commented on the application concerned and any other person as the municipality may determine.

- (b) The notice by the applicant must invite persons to comment on the appeal within 21 days from date of notification of the appeal.
 - (c) The notice must be served in accordance with section 35 of the said legislation and in accordance with the prescripts or such additional requirements as may be determined by the Municipality.
 - (d) Proof of serving the notification must be submitted to the Municipality at the above E-mail address within 14 days of serving the notification.
9. Kindly note that no appeal right exists in terms of Section 62 of the Local Government Municipal Systems Act, No 32 of 2000.
10. Kindly note the above decision in the case of any approval, is suspended, and may therefore not be acted on, until such time as the period for lodging appeals has lapsed, any appeal has been finalised and you've been advised accordingly.

Yours faithfully



FOR DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT

17/9/2024
DATE

APPENDIX 1

La Petite Provence Home Owner's Association Constitution

(Updated at the 2024 AGM)

LA PETITE PROVENCE

HOME OWNERS' ASSOCIATION CONSTITUTION

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STELLENBOSCH MUNICIPALITY

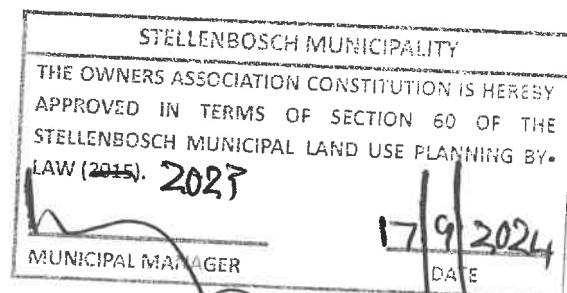
THE OWNERS ASSOCIATION CONSTITUTION IS HEREBY
APPROVED IN TERMS OF SECTION 60 OF THE
STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-
LAW (2016) 2027

MUNICIPAL MANAGER

17/9/2024

DATE

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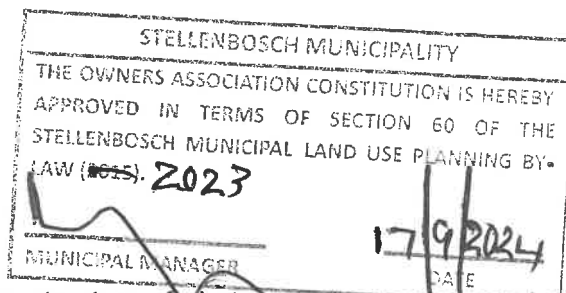


STELLENBOSCH MUNICIPALITY	
THE OWNERS ASSOCIATION CONSTITUTION IS HEREBY APPROVED IN TERMS OF SECTION 60 OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY- LAW (2015) 2023	
MUNICIPAL MANAGER	DATE 17/9/2024

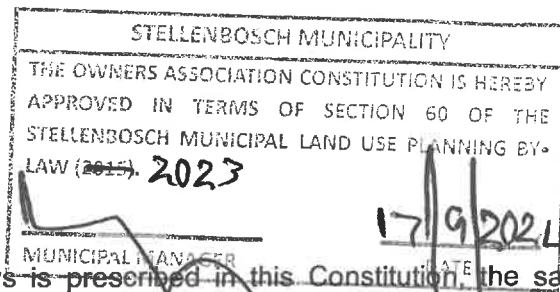
1. DEFINITIONS

In this constitution and unless inconsistent with the context the following words and expressions shall have the meanings hereby assigned to them:

- | | | |
|------|--------------------------|---|
| 1.1 | Alienate | alienate any erf or part thereof and includes by way of sale, exchange, donation, deed, intestate succession, will, cession, assignment, court order, insolvency or liquidation, irrespective of whether such alienation is subject to a suspensive or resolute conditions and alienation shall have corresponding. |
| 1.2 | Architects | means such Architects as may be appointed by the Association from time to time; |
| 1.3 | Association | the La Petite Provence Home Owners Association which is bound by the provisions of this Constitution. |
| 1.4 | Auditors | the auditors of the Association. |
| 1.5 | Body Corporate | means a Body Corporate as defined in the Sectional Titles Act No. 95 of 1986 and which Body Corporate is the controlling body of the sectional title scheme situated in the Department. |
| 1.6 | Body Corporate Trustee | a trustee appointed by the Body Corporate. |
| 1.7 | Chairman | the Chairman of the Trustees. |
| 1.8 | Constitution | this document with the annexures hereto. |
| 1.9 | CSOS | means the Community Schemes Ombud Service established in terms of the Community Schemes Ombud Service Act, No. 9 of 2011. |
| 1.10 | Developer | Sheerprops 91 (Pty) Ltd (Reg No. 97/18453/07); |
| 1.11 | Development | the Township to be laid out on consolidated farm 1080 and Remaining Portions 2 and 8 of Farm 1070, Division Paarl, Western Cape and as finally surveyed by Land Surveyor, David Heilig & Abrahamse; |
| 1.12 | Electronic Communication | has the meaning set out in section 1 of the Electronic Communications and Transactions Act, No. 25 of 2002. |
| 1.13 | Erf | every erf in the Development which in terms of the subdivision of the Development enjoys single residential use rights. |
| 1.14 | Erven | every erf in the Development and which includes immovable property transferred in accordance with the provisions hereof to the Association. |
| 1.15 | Development Guidelines | the architectural and horticultural guidelines prepared for and applicable to the Development, and includes all/any amendments made thereto from time to time. |



- 1.16 Improvements any structure of whatever nature constructed or erected on any Erf.
- 1.17 Levy the levy referred to in clause 13 hereof.
- 1.18 Local Authority the local authority having jurisdiction over the Development which is the Municipality of Stellenbosch.
- 1.19 Lupo the Land Use Planning Ordinance No. 15/1985 (as amended) and includes any substituted legislation.
- 1.20 Managing Agent any person or body appointed by the Association as an independent contractor to undertake any of the functions of the Association.
- 1.21 Member every registered owner of an Erf (Home Owner) as well as each Member of the the Body Corporate. If a Member consists of more than one person such persons shall be jointly and severally liable in solidum for all obligations in terms of this Constitution.
- 1.22 Member Trustee a trustee appointed by the Members excluding the Body Corporate.
- 1.23 Resolution a resolution passed at an annual general meeting or any other general meeting of the Association by an ordinary majority of the total votes represented at such meeting by Members present in person or by proxy.
- 1.24 Trustees the Body Corporate Trustees and the Member Trustees of the Association, collectively from time to time and includes alternate and co-opted Trustees.
- 1.25 Unit a section (as defined in the Sectional Titles Act No. 95/1986) in any sectional title scheme in the Development together with such section's undivided share in the common property of such sectional title scheme.
- 2. INTERPRETATION**
- 2.1 The clause headings are for convenience and shall be disregarded in construing this Constitution.
- 2.2 Unless the context clearly indicates a contrary intention.
- 2.2.1 The singular shall include the plural and vice versa; and
- 2.2.2 A reference to any one gender shall include the other genders; and
- 2.2.3 A reference to natural persons includes legal persons and vice versa.
- 2.3 Words and expressions defined in any sub-clause shall, for the purpose of the clause to which that sub-clause forms part and in subsequent clauses, unless inconsistent with the context, bear the meaning assigned to such words and expressions in such sub-clause.



- 2.4 When any number of days is prescribed in this Constitution, 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.
- 2.5 Where figures are referred to in words and in numerals, if there is any conflict between the two, the words shall prevail.
- 2.6 If any provision of this Constitution is in conflict or inconsistent with any Law, the invalidity of any such provision shall not affect the validity of the remainder of the provisions of this Constitution.
- 2.7 If any provision in a definition in this Constitution is a substantive provision conferring rights or imposing obligations on any of the Members then, notwithstanding that it is only in the definition clause of this Constitution, effect shall be given to it as if it were a substantive provision in the body of this Constitution.
- 2.8 The annexures to this Constitution are deemed to be incorporated in and form part of this Constitution.

3. RECORDAL

- 3.1 The Local Authority when approving the application for subdivision to allow for the Development imposed a condition in terms of Section 29(1) of Lupo whereby the owner of each subdivided portion of the immovable property comprising the Development and all successors in title as well as any Body Corporate shall be members of a homeowners association in respect of the Development.
- 3.2 The Association is desirous of regulating and controlling harmonious maintenance and development of the Development.

4. COMMENCEMENT DATE

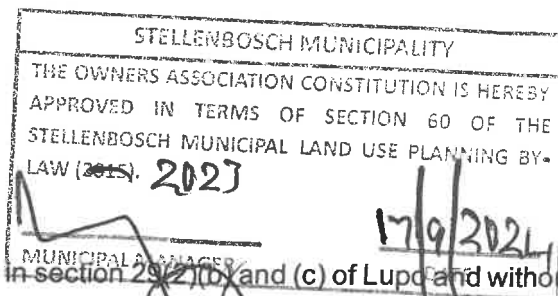
The Association, as contemplated in terms of Section 29 of Lupo, came into existence simultaneously with the first registration of transfer of an Erf from the Developer to an owner.

5. STATUS

- 5.1 The Association shall:
- 5.1.1 Have legal personality and be capable of suing and being sued in its own name; and
 - 5.1.2 Not operate for profit but for the benefit of the Members.
- 5.2 No Member in his personal capacity shall have any right, title or interest to or in the funds or assets of the Association which shall vest in and be controlled by the Trustees.

6. OBJECTS

The Association shall have as its object:



- 6.1 The matters referred to in section 29(2)(b) and (c) of Lupa and without detracting from the generality thereof, to ensure compliance with the conditions of subdivision imposed by the Local Authority when approving the Development and, more specifically:

- 6.1.1 to oversee, maintain and control the Development;
- 6.1.2 to ensure the general high standard of the Development;
- 6.1.3 generally to promote, advance and protect the Development.

- 6.2 The regulation and control of harmonious development of the Development.

- 6.3 To promote a high standard of Improvements on the Development.

- 6.4 To administer and enforce the Development Guidelines.

- 6.5 To control the transfer of Erven in the Development and procure compliance with the conditions imposed by the Local Authority and conditions imposed by the Developer in the Agreement of Sale between the Developer and the purchaser of an Erf.

and the Association shall have the power to do all such acts as are necessary to accomplish the fulfilment of the foregoing objects including, but not restricted, to powers specifically contained in this Constitution.

7. MEMBERSHIP

- 7.1 The Association shall have as its Members:

- 7.1.1 Deleted

- 7.1.2 Every owner upon registration of transfer of an Erf into his name provided that where an owner comprises more than one person, such persons shall be deemed jointly to be one Member of the Association and shall be responsible jointly and severally for the obligations of such membership.

- 7.1.3 Members of The Body Corporate who shall be responsible jointly and severally for the obligations of membership.

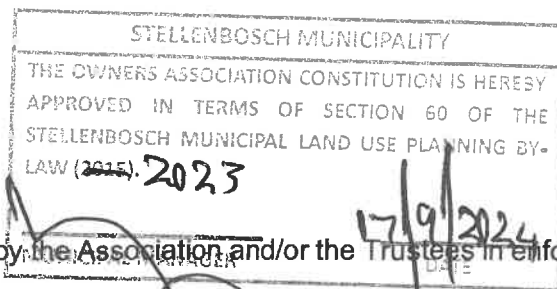
- 7.2 An owner of an Erf shall be a member of the Association until he ceases to be the registered owner of such Erf.

- 7.3 When a Member ceases to be the registered owner of an Erf he shall ipso facto cease to be a Member of the Association.

8. MEMBERS OBLIGATIONS

Every Member is obligated to comply with:

- 8.1 The provisions of this Constitution and all rules or regulations passed by the Association or the Trustees.
- 8.2 The provisions of the Development Guidelines annexed hereto.
- 8.3 Any agreement concluded by the Association and/or the Trustees in enforcing the provisions of this Constitution.



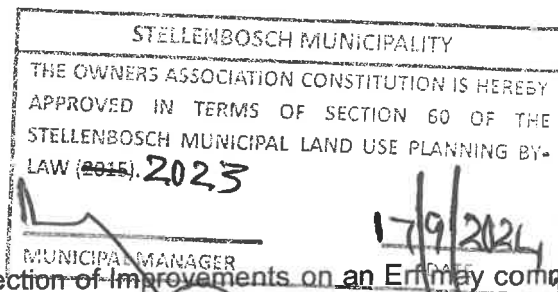
- 8.4 Any directive given by the Association and/or the Trustees in enforcing the provisions of this Constitution.
- 8.5 The rights and obligations of a Member are not transferable and every Member shall:
- 8.5.1 To the best of his ability, further the objects and interest of the Association;
- 8.5.2 Observe all directives made or given by the Association and/or the Trustees.
- 8.6 The Members shall be jointly liable for expenditure Incurred in connection with the Association as more fully later referred to herein.
- 8.7 A Member shall not be entitled to Alienate or transfer an Erf without the written consent of the Trustees, which consent shall not be unreasonably withheld provided there has been compliance with the provisions of this Constitution.
- 8.8 A Member shall not consolidate an Erf with one or more erven without the written consent of the Trustees.
- 8.9 A Member shall not Alienate an Erf unless:
- 8.9.1 The proposed transferee has irrevocably bound himself to become a member of the Association and to observe the Constitution for the duration of his ownership of the Erf;
- 8.9.2 The Association has issued a clearance that all amounts owing to the Association by such Member have been paid and that the Member is not in breach of any of the provisions of this Constitution.
- 8.9.3 The proposed transferee acknowledges that upon the registration of transfer of the Erf into his name, he shall ipso facto become a Member of the Association.
- 8.10 No Member shall let or otherwise part with the occupation of his Erf whether temporarily or otherwise unless the proposed occupier has agreed to be bound by this Constitution. The Member shall, nonetheless, remain bound by this Constitution and is required to ensure compliance therewith by such occupier.
- 8.11 A Member may not resign from the Association.

9. BODY CORPORATE

The Body Corporate shall procure that an obligation is imposed on its members in terms of its rules to the effect that its members are bound mutatis mutandis by the provisions of this Constitution and any rules framed hereunder as if such members were Members of this Association.

10. IMPROVEMENTS

- 10.1 Delete.
- 10.2 The Development Guidelines constitutes an integral part of this Constitution and may be amended, substituted, added to or repealed at the instance of the Trustees.
- 10.3 All Improvements shall be of approved design and of sound construction and shall comply with the provisions of the Development Guidelines.

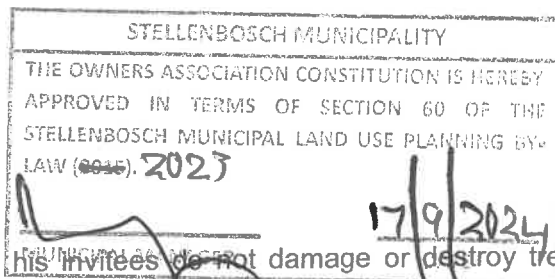


- 10.4 No construction or erection of improvements on an Erf may commence prior to the approval of plans for such Improvements.
- 10.5 Approval of building plans will not be granted by the Local Authority without the prior written approval of the Association which approval shall be evidenced by the stamp of the Association.

11. FURTHER OBLIGATIONS OF MEMBERS

Each Member shall:

- 11.1 Maintain his Erf in accordance with the Development Guidelines.
- 11.2 Maintain in a neat and tidy condition and in a state of good repair all Improvements on his Erf.
- 11.3 Establish and maintain a garden according to a standard acceptable to the Trustees.
- 11.4 Be responsible for the maintenance of external and boundary walling inclusive of regular painting thereof.
- 11.5 Not do or suffer to be done on any Erf anything which, in the opinion of the Trustees, is noisome, unsightly, injurious, objectionable or detrimental or a public or private nuisance or a source of damage or disturbance to any Member, tenant or occupier of any Erf in the Development.
- 11.6 Not, during construction/erection of Improvements, permit the erection of more than 1 (one) advertising board on an Erf and such permitted board shall not have a surface area exceeding 1 (one) square metre and shall be removed immediately upon conclusion of the building contract for the Improvements.
- 11.7 Not erect or permit the erection of any advertising boards on any Erf anywhere in the Development without the written approval of the Trustees.
- 11.8 Adequately insure the Improvements on his Erf and, if requested by the Trustees, furnish proof of such insurance to them and, in the event of total/partial destruction, he shall, within a reasonable time period, make good such damage in accordance with the original approved plans or, in the event of total destruction in accordance with the Development Guidelines.
- 11.9 Where the erection of structures to house animals or birds or the construction/erection of garden/tool shed/s is permitted, such structures shall be screened from public view and the animals or birds so housed shall not constitute a disturbance or nuisance to Members or their tenants or occupiers and the Trustees shall, in their absolute discretion, be entitled to require the permanent removal from the Development of any animals or birds which, in the opinion of the Trustees, constitutes a disturbance or nuisance.
- 11.10 Comply with all security procedures implemented from time to time.
- 11.11 Generally ensure that gardening and landscaping of his Erf is undertaken so as to be compatible with the Development Guidelines.
- 11.12 Ensure that his dog is kept on a leash in all open areas including vineyards within the Development and is controlled to ensure that other dogs are not interfered with.



11.13 Ensure that he and his invitees do not damage or destroy trees, vegetation and landscaping on open areas of the Development and that planning on his Erf does not interfere with pedestrian traffic or obscure the vision of motorists.

11.14 Not conduct a business providing guest accommodation from his dwelling unit or part thereof. For the purpose of this clause 'guest accommodation' means the use of a dwelling unit as a guest house, bed and breakfast establishment, self-catering or holiday accommodation unit, or the regular supply of lodging or board and lodging in any dwelling unit or part thereof to members of the public or guests for monetary gain, including but not limited to provide bed & breakfast suite/s or guest house suite/s or self-catering room/s for use by guests or to rent out a whole house unit as a single self-catering unit for a period of 2 (two) months or less, but excluding any residential lease agreement concluded for a lease period in excess of 2 (two) months.

12. RESTRICTIONS

12.1 No Member shall apply for the rezoning of his Erf with a view to procuring a variation or amendment or substitution of use other than the permitted use applicable upon establishment of the Development.

12.2 No Member shall conduct any business on an Erf or use such Erf for purposes other than residential purposes unless the Trustees have, in writing, approved the use to which the Erf is to be put and the Local Authority has, to the extent that it may be necessary, granted approval authorising such use in terms of applicable laws and regulations and there has been compliance with the following:

12.2.1 Any Member wishing to conduct a business on his Erf or who wishes to use his Erf for purposes other than residential, shall apply in writing to the Trustees for permission to do so. The Trustees shall be entitled in their absolute discretion to refuse such application or to approve the application

12.2.2 An application in terms of the foregoing shall contain a full description of the proposed business or usage, including but not limited to:

12.2.2.1 The type of business;

12.2.2.2 The number of full time and/or part time staff;

12.2.2.3 The times and duration of the business operation, including number of days per week;

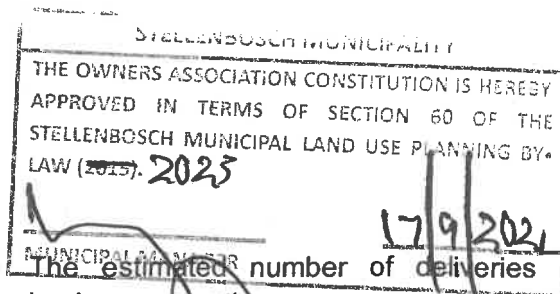
12.2.2.4 The projected growth of the business operation;

12.2.2.5 Whether any alteration to the existing Improvements is proposed;

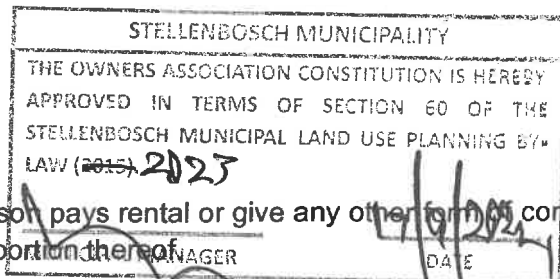
12.2.2.6 In which portion of the Improvements the business activity is to be located;

12.2.2.7 The number and type of vehicle which will be regularly involved in the business operation;

12.2.2.8 The estimated number of visitors per week resulting from the business operation;



- 12.2.2.9 The estimated number of deliveries necessitated by the business operation;
- 12.2.2.10 What provision is to be made for parking;
- 12.2.2.11 The likely impact of the business operation on neighboring properties and the neighbourhood in general.
- 12.2.3 The Trustees shall not approve any such application unless they are satisfied that the application complies with the following:
- 12.2.3.1 The business operation will not detrimentally alter the character of the neighborhood or affect the privacy and rights of neighbors;
- 12.2.3.2 The number of employees involved in the running of the business operation will not exceed 2 (two).
- 12.2.3.3 The Member will reside permanently on the Erf in respect whereof the application is made.
- 12.2.3.4 Members who are affected by the application are in agreement therewith.
- 12.2.3.5 Adequate provision has been made for parking within the Erf and the landscaping of the Erf will be suitable for the type of business contemplated and that no parking of vehicles off the Erf within the Development will result from the business operation.
- 12.2.3.6 The granting of the application will not have any significant effect on the density of traffic in the Development.
- 12.2.3.7 Non-residents will not be afforded uncontrolled access into the Development.
- 12.2.3.8 No signage will be erected.
- 12.2.3.9 The hours of the business operation will be confined to between 08h00 and 18h00 on weekdays and no business will be conducted on Saturdays, Sundays and proclaimed public holidays.
- 12.2.4 Should any Member to whom permission has been granted for the conduct of a business change any aspect of such business then such Member shall submit a fresh application in accordance with the provisions hereof to continue such business.
- 12.2.5 No Member to whom approval has been granted shall be entitled to erect any sign or advertisement on his Erf or on any of the common areas in the Development in connection with such business save with the approval of the Association.
- 12.3 No Member shall permit the number of occupants of his Erf to exceed 2 (Two) persons per bedroom. The word "occupants" shall include but shall not be limited to any person who resides or stays on such Erf on a regular or occasional basis irrespective of whether such person is related to or is financially dependent upon the



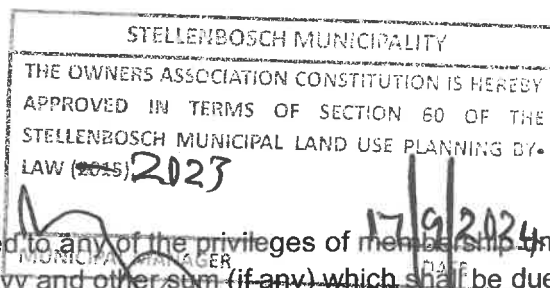
Member or whether such person pays rental or give any other form of consideration in respect of such Erf or any portion thereof

13. LEVIES

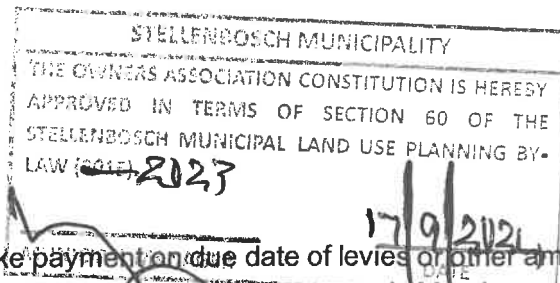
13.1 The Trustees shall:

- 13.1.1 establish and maintain a levy fund for the purposes of meeting all expenses of the Association for the control, management and administration of the Development including for repairs and maintenance of common property in the Development and for charges for the supply of any services required by the Association and/or for payment of all expenses necessary or reasonably incurred in connection with the management of the Association and/or the Development;
- 13.1.2 estimate the amount which will be required by the Association to meet its expenses during each year together with such estimated deficiency, if any, as shall have devolved from the preceding year and may include in such estimate an amount to be held in reserve to meet anticipated future expenditure not of an annual nature;
- 13.1.3 require Members whenever necessary to make contributions to such fund to the purposes of satisfying the expenses referred to in clauses 13.1.1 and 13.1.2, equal as nearly as is reasonably practical to such estimated amount.

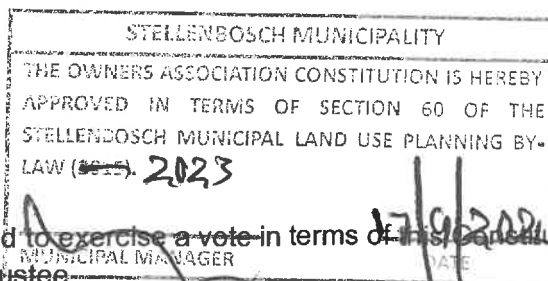
- 13.2 The Trustees may, from time to time, make special levies upon Members effective from the date of passing of the applicable resolution in respect of such expenses referred to in clause 13.1 (which are not included in any estimate made in terms of clause 13.1.2) and such levies may be imposed and shall be payable in one sum or by such instalments and at such time or times as the Trustees shall deem fit.
- 13.3 Any amount due by a Member by way of a levy shall be a debt due by him to the Association payable within such time as determined by the Trustees. The obligation of a Member to pay a levy shall cease upon his ceasing to be a Member save that he shall remain liable for all levies calculated to the date upon which he ceases to be a Member. No levies paid by a Member shall be repayable by the Association upon his ceasing to be a Member. A Member's successor in title to an Erf shall be liable as from the date upon which he becomes a Member pursuant to the transfer of such Erf to pay the levies attributable to that Erf until the Trustees have certified that the Member has, at the date of transfer, paid all amounts owing by him to the Association.
- 13.4 In calculating levies, the Trustees shall take into account income if any, earned by the Association and the allocation of voting rights to Members as recorded herein.
- 13.5 The decision of the Trustees in calculating the levies shall be final and binding on all Members.
- 13.6 The levy payable by a Member shall bear the same proportion to the total levy imposed by Members as that Member's voting right bears to the aggregate of voting rights of all Members.



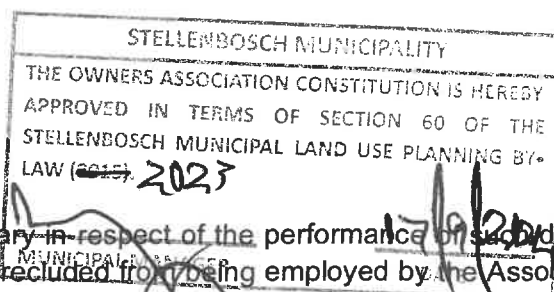
- 13.7 No Member shall be entitled to any of the privileges of membership unless and until he shall have paid every levy and other sum (if any) which shall be due and payable to the Association in respect of his membership thereof.
- 13.8 All levies are due and payable by Members on the first day of the month immediately following the month in which such liability arose, and thereafter, on the first day of each and every following month.
- 13.9 Members shall be liable for payment of interest on outstanding amounts at a rate determined by the Trustees from time to time but not exceeding the maximum annual rate permitted by law. Interest calculated at the determined rate is recoverable from the date on which the amount is due and payable to the date of payment provided that any portion of a month will be regarded as a full calendar month for the purposes of this calculation.
- 13.10 A fine at the discretion of the trustees, shall be imposed on any member should they or their visitors in any way destroy or damage any common property facilities, plants or vines, etc.
- 14. BREACH**
- 14.1 The Trustees may on behalf of and in the name of the Association institute legal proceedings in accordance with the provisions of this clause 14.
- 14.2 If any Member fails in the observance of any of the provisions of this Constitution with regard to Improvements and/or the provisions of the Development Guidelines and/or fails to comply with any rules or regulations made in terms hereof, the Trustees may on behalf of and in the name of the Association serve notice on such Member calling upon him to remedy such failure which shall be set out in such notice and, failing timeous compliance:
- 14.2.1 Enter upon the Erf (as the case may be) to take such action as may be reasonably required to remedy the breach and the Member concerned shall be liable to the Association for all costs so incurred, which costs shall be due and payable upon demand; and/or
- 14.2.2 Call upon such Member in writing to remove within a specified period any portion of the Improvement or any addition erected contrary to the provisions of this Constitution read with the Development Guidelines and, failing which, the matter shall be referred to a special meeting of the Association convened to afford such Member the opportunity to make representations to the Trustees. The Resolution of the Association at such meeting shall be binding upon such defaulting Member and shall be implemented by the Trustees; and/or
- 14.2.3 Institute proceedings in any court of competent jurisdiction for such relief as the Trustees may consider necessary and such Member shall be liable for and shall pay all costs of such proceedings on the scale as between attorney and own client and all other expenses and charges incurred in obtaining relief; and/or
- 14.2.4 Apply to CSOS for relief.



- 14.3 If any Member fails to make payment on due date of levies or other amounts payable by such Member, the Trustees may give notice to such Member requiring him to remedy such breach within such period as the Trustees may determine and should he fail to timeously remedy this breach the Trustees may on behalf of the Association, institute legal proceedings against such Member without further notice and such Member will be liable for and shall pay all legal costs on the scale as between attorney and own client together with collection commission and any other expenses and charges incurred by the Association in obtaining recovery.
- 14.4 Nothing in the foregoing shall derogate from or in any way diminish the right of the Association to institute proceedings in any court of competent jurisdiction for recovery of any money due by any Member arising from any cause of action whatsoever or for any other relief.
- 14.5 In the event of any breach of this Constitution by the members of any Member's household or his invitees or lessees, such breach shall be deemed to have been committed by the Member himself but, without prejudice to the foregoing, the Trustees shall be entitled to take such steps against the person actually committing the breach as they may in their discretion deem fit, with or without proceedings against the Member.
- 15. TRUSTEES**
- 15.1 The Trustees of the Association shall comprise 4 (four) Trustees representing the Home Owners Members and 2 (two) Trustees representing the Body Corporate Members. The Association shall in a general meeting be entitled to increase or decrease the number of Trustees.
- 15.2 A Trustee shall be an individual but need not himself be a Member provided that the majority of Member Trustees shall be Members.
- 15.3 A Trustee shall, by accepting his appointment as such, be deemed to have agreed to be bound by the provisions of this Constitution.
- 15.4 Subject to the provisions of clause 15.5, each Trustee shall continue to hold office until the annual general meeting of the Association following his appointment, at which meeting each Trustee shall be deemed to have retired from office as such but will be eligible for re-election at such meeting.
- 15.5 A Trustee shall be deemed to have vacated his office as such upon:
- 15.5.1 his estate being sequestered, whether provisionally or finally or upon his surrendering his estate;
 - 15.5.2 him making any arrangement or composition with his creditors;
 - 15.5.3 his conviction for any offence involving dishonesty;
 - 15.5.4 him becoming of unsound mind or being found lunatic;
 - 15.5.5 him resigning from such office in writing;
 - 15.5.6 his death;
 - 15.5.7 him being removed from office by a resolution of Trustees;



- 15.5.8 his being disentitled to exercise a vote in terms of this Constitution provided he is a Member Trustee.
- 15.6 Notwithstanding the fact that a Trustee shall be deemed to have vacated his office as provided in clause 15.5, anything done by such Trustee in the capacity of a Trustee in good faith shall be valid until the fact that he is no longer a Trustee has been recorded in the Minute Book of the Trustees. Should the office of a Trustee fall vacant prior to the next annual general meeting of the Association, the vacancy shall be filled by a person appointed by the majority of the Home Owner Member Trustees if the vacancy is in respect of a Home Owner Member Trustee and by the Body Corporate if the vacancy is in respect of a Body Corporate Trustee and the person so appointed shall hold office until the next annual general meeting.
- 15.7 The Chairman shall be elected from amongst the Home Owner Member Trustees.
- 15.8 Within seven (7) days of the holding of each annual general meeting of the Association the Trustees shall meet and shall elect the Chairman who shall hold office until the election of a chairman at the first meeting of Trustees held within 7 (Seven) days of the following annual general meeting, provided that the office of Chairman shall ipso facto be vacated by the Trustee holding such office upon his ceasing to be a Trustee for any reason. In the event of any vacancy occurring in the aforesaid office the Trustees shall meet as soon as reasonably possible to appoint a replacement in such office.
- 15.9 Save as otherwise provided in this Constitution, the Chairman shall preside at all meetings of the Trustees and all general meetings of the Association and shall perform all duties incidental to the office of Chairman and such other duties as may be prescribed by the Trustees or by Members and shall allow or refuse to permit guests to speak at any such meetings, provided that any such guest shall not be entitled to vote at any meetings and provided further that a Member's spouse shall be entitled to speak at any meeting.
- 15.10 If the Chairman vacates the chair during the course of a meeting or is not present or is, for any other reason, unable to preside at any meeting, the Trustees present at such meeting shall choose another Chairman for such meeting.
- 15.11 If any Chairman vacates his office as Chairman or no longer continues in office for any reason, the Trustees shall elect another Chairman who shall hold office as such for the remainder of the period of office of the first mentioned Chairman.
- 15.12 A Trustee shall be disqualified from voting in respect of any contract or proposed contract or any litigation or proposed litigation or any dispute, with the Association, by virtue of any interest he may have therein.
- 15.13 No contract concluded on behalf of the Trustees shall be valid and binding unless it is signed by the Chairman and one Trustee, the latter specifically appointed as authorised signatory in terms of the Resolution of Trustees whereby the Trustees bind the Association
- 15.14 Trustees shall be entitled to be repaid all reasonable and bona fide expenses incurred by them in or about the performance of their duties as Trustees and/or Chairman, as the case may be, but save as aforesaid, shall not be entitled to any other

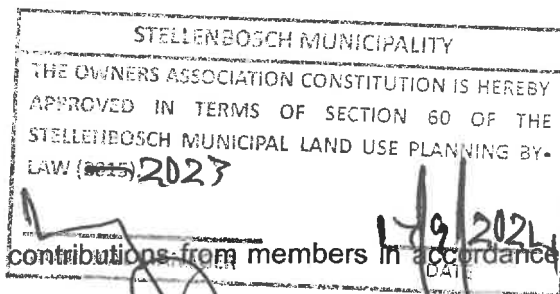


remuneration, fees or salary in respect of the performance of such duties provided that no Trustee shall be precluded from being employed by the Association in such Trustee's professional capacity and from being paid a reasonable remuneration in respect of such professional services.

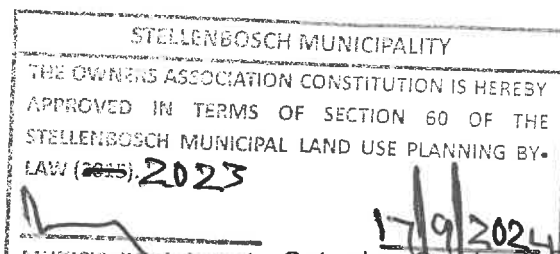
- 15.15 Trustees may not make loans on behalf of the Association Members or to themselves.

16. FUNCTIONS, POWERS AND DUTIES OF TRUSTEES

- 16.1 Subject to the express provision of this Constitution, the Trustees shall manage and control the business and affairs of the Association, shall have full powers in the management and direction of such business and affairs, including the right of appointment and dismissal of any Managing Agent, may exercise all such powers of the Association and do all such acts on behalf of the Association as may be exercised and done by the Association and as are not by this Constitution required to be exercised or done by the Association in general meeting subject however to such regulations as may have been made by the Association in general meeting provided that no regulation made by the Association in general meeting shall invalidate any prior act of the Trustees which would have been valid if such regulation had not been made.
- 16.2 Save as specifically provided in this Constitution, the Trustees shall at all times have the right to engage on behalf of the Association the services of accountants, advocates, attorneys, auditors, architects, engineers, land surveyors, managing agents, town planners or any other professional firm or person or other employees whatsoever for any reason deemed necessary by the Trustees on such terms as the Trustees shall decide.
- 16.3 The Trustees shall have the right to vary, cancel or modify any of their decisions and resolutions from time to time.
- 16.4 The Trustees shall have the right to co-opt any person or persons chosen by them. A co-opted Trustee shall enjoy all the rights and be subject to all the obligations of the Trustees provided that such co-opted Trustee shall only serve until the next annual general meeting.
- 16.5 The Trustees may, should they so decide, investigate any suspected or alleged breach by any Member or Trustee of this Constitution in such reasonable manner as they shall decide from time to time.
- 16.6 The Trustees may make regulations and rules not inconsistent with this Constitution or any regulations or rules prescribed by the Association in general meeting.
- 16.6.1 as to the resolution of disputes generally;
 - 16.6.2 for the furtherance and promotion of any of the objects of the Association;
 - 16.6.3 for the better management of the affairs of the Association;
 - 16.6.4 for the advancement of the Interest of Members;
 - 16.6.5 for the conduct of Trustees at meetings of Trustees and of Members at meetings of the Association;



- 16.6.6 to levy and collect contributions from members in accordance with clause 13;
- 16.6.7 to levy and recover from Members moneys which are necessary to defray the necessary expenses of the Local Authority in the event of the Local Authority imposing any levies and imposts against the Association;
- 16.6.8 to assist it in administering and governing its activities generally.
- 16.7 Without in any way limiting the powers granted, the duties and powers of the Trustees shall further specifically include:
- 16.7.1 the determination of what constitutes appropriate standards for residential living, maintenance, repairs, additions to and improvements of all Erven and Units in the Development in strict accordance with the provisions of the Development Guidelines. The Trustees shall be entitled to require any Member, who shall be obliged, to repaint or renovate his improvements if in the reasonable opinion of the Trustees such improvements require essential repairs or have become dilapidated;
- 16.7.2 entering into of agreements with third parties on behalf of the Association for any purpose of the Association;
- 16.7.3 the employment on behalf of the Association of agents, servants and any other party and the payment of such persons;
- 16.7.4 the taking of steps in all matters of common interest in respect of the Association and, without detracting from the generality thereof, such as common sewage, electricity supply, landscaping, maintenance of private roads, refuse facilities, removal of refuse and suchlike, where applicable;
- 16.7.5 the institution of defence of actions in the name of the Association and to appoint legal representatives for such purpose.
- 17. PROCEEDINGS OF TRUSTEES**
- 17.1 the Trustees may meet for the dispatch of business, adjourn and otherwise regulate their meetings as they deem fit, subject to the provisions of this Constitution.
- 17.2 Meetings of the Trustees shall be held at least once every six (6) months.
- 17.3 The Chairman always has the right to convene meetings of Trustees.
- 17.4 A Trustee may, provided he has the support in writing of two (2) other Trustees, at any time convene a meeting of Trustees by giving to the other Trustees not less than fourteen (14) days written notice of a meeting proposed by him, which notice shall specify the reason for calling such a meeting; provided that in cases of urgency, such shorter notice as is reasonable in the circumstances may be given.
- 17.5 A Resolution in writing signed by all the Trustees shall be valid and effectual as if it had been passed at a meeting of Trustees duly called and constituted.
- 17.6 The quorum necessary for the holding of any meeting of Trustees shall be four (4) Trustees present personally. If no quorum is present within fifteen (15) minutes after the time for commencement of the meeting then it shall stand adjourned for the same



time and place on the following day which is not a Saturday, Sunday or Public holiday and, if at such adjourned meeting, a quorum is not present within thirty (30) minutes after the time appointed for the meeting, the Trustees then present shall be a quorum.

- 17.7 Any Resolution of the Trustees shall be carried by a simple majority of all votes cast. In the case of an equality of votes for and against a Resolution, the Chairman shall have a second or casting vote.
- 17.8 The Chairman shall preside as such at all meetings of Trustees provided that, should at any meeting of Trustees the Chairman not be present within fifteen (15) minutes after the time appointed for the holding thereof, those present of the Trustees shall vote to appoint a Chairman for the meeting who shall thereupon exercise all the powers and duties of the Chairman in relation to such meeting.
- 17.9 A Trustee may be represented at a meeting of Trustees by a proxy provided such proxy is a Trustee.
- 17.10 The instrument appointing a proxy shall be in writing and signed by the Trustee concerned but need not be in any particular form. The proxy shall be deposited with the Chairman at any time before the time appointed for the commencement of a meeting and shall be valid only for such meeting or any adjournment thereof.
- 17.11 The Trustees shall:
- 17.11.1 ensure that minutes are taken of every meeting of Trustees, although not necessarily verbatim, which minutes shall be reduced to writing without undue delay after the meeting has closed and shall then be certified correct by the Chairman of the meeting;
 - 17.11.2 cause such minutes to be kept of all meeting of the Trustees in a minute book of meetings of Trustees kept for the purpose;
 - 17.11.3 keep all books of meetings of Trustees in perpetuity;
 - 17.11.4 on the written application of any Member, make all minutes of their proceedings available for inspection by such Member.
- 17.12 All Resolutions recorded in the minutes of any meetings of Trustees shall be valid and of full force and effect as therein recorded with effect from the passing of such Resolutions and until varied or rescinded, but no Resolution or purported Resolution of Trustees shall be of any force or effect or shall be binding upon the Members or any of the Trustees unless such Resolution is competent within the powers of the Trustees.
- 17.13 Save as otherwise provided in this Constitution, the proceedings at any meeting of Trustees shall be conducted in such reasonable manner and form as the Chairman of the meeting shall decide.
- 18. MANAGING AGENT**
- 18.1 The Trustees shall, in addition to the powers contained herein, have the power from time to time, if deemed necessary, to appoint in terms of a written contract, a Managing Agent to control, manage and administer the Development and to exercise such power and duties as may be entrusted to the Managing Agent, including the

power to collect levies, provided that a Managing Agent shall be appointed for a year at a time, and unless the Trustees notify the Managing Agent to the contrary, such appointment will be automatically renewed from year to year.

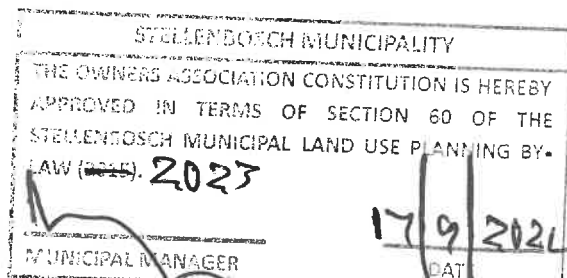
- 18.2 The Trustees shall ensure that there is included in the contract of appointment of a Managing Agent a provision to the effect that if the Managing Agent is in breach of any of the provisions of his contract or if he is guilty of conduct which at common law would justify the termination of a contract between master and servant, the Trustee may, without notice, cancel such contract of employment and the Managing Agent shall have no claim whatsoever against the Trustees and/or the Association.

19. GENERAL MEETINGS OF THE ASSOCIATION

- 19.1 The Association shall, within twelve (12) months of the date of commencement of the Association hold a general meeting as its first annual general meeting. Thereafter, within three (3) months of the financial year end of the Association it shall hold second and subsequent annual general meetings.
- 19.2 Such annual general meetings shall be held at such time and place, subject to the foregoing provisions, as the Trustees shall decide from time to time.
- 19.3 The Trustees may, whenever they deem fit, convene a general meeting and a general meeting shall also be convened on a requisition made by not less than 25% (twenty five per centum) of Members or should the Trustees fail to do so such meeting may be convened by the requisitionists themselves provided that notice thereof be given in terms of clause 2.1.

20. NOTICE OF MEETINGS

- 20.1 An annual general meeting shall be called by not less than twenty one (21) days notice and a general meeting by not less than fourteen (14) days notice. The notice shall specify the place, the day and the hour of the meeting and, in the case of special business in addition to any other requirements contained in this Constitution, the general nature of that business and the reasons for it shall be given in the manner hereafter mentioned or in such other manner, if any, as may be prescribed by the Trustees to such persons as are, under this Constitution, entitled to receive such notices from the Association, provided that a general meeting or an annual general meeting of the Association shall, notwithstanding that it is called by shorter notice than that specified in this Constitution, be deemed to have been duly called if it is agreed to by not less than 60% (sixty per centum) of Members having a right to attend and vote at the meeting.
- 20.2 The accidental omission to give notice of any Resolution or to present any document required to be given or sent in terms of this Constitution, shall not invalidate the proceedings at or any Resolution passed at any meeting.
- 20.3 Delete
- 20.4 The non-receipt of notice of a meeting by any person entitled to receive notice shall not invalidate the proceedings of that meeting.

**21. PROXIES**

- 21.1 A Member may be represented at an annual general meeting and/or general meeting by a proxy who must be a Member of the Association.
- 21.2 The instrument appointing a proxy shall be in writing signed by the Member concerned or his duly authorised agent but need not be in any particular form provided that where a Member is more than one person any one of those persons may sign the instrument appointing a proxy on such Member's behalf. Where a Member is a company, the proxy may be signed by any person authorised by resolution of the board of directors of the company or by its secretary and, where a close corporation, by any member of such close corporation and, where an association of persons, by the secretary thereof and, where a trust or a Body Corporate, by a person duly authorised by the trustees of such trust, or Body Corporate as the case may be.
- 21.3 The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy thereof shall be lodged with the Chairman before the scheduled time for the commencement of the meeting or adjourned meeting concerned. The instrument appointing a proxy shall be valid only for the specific meeting or the adjournment thereof.
- 21.4 Delete.
- 21.5 Delete.

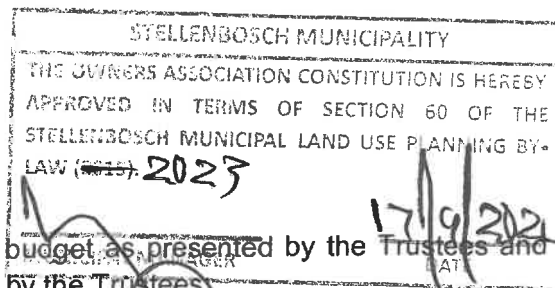
22. QUORUM

- 22.1 No business shall be transacted at any annual general meeting or general meeting unless a quorum is present when the meeting proceeds to business and when any Resolution is to be passed. The quorum necessary for the holding of any meeting shall be 25% (twenty five per centum) of the total Members entitled to attend and vote thereat.
22. If within thirty (30) minutes after the time appointed for the commencement of the meeting, a quorum is not present, the meeting, if convened on the requisition of Members, shall be dissolved. In all other cases, the meeting shall stand adjourned to the same day in the next week at the same place and time and, if at such adjourned meeting, a quorum is not present, the Members present shall constitute a quorum.

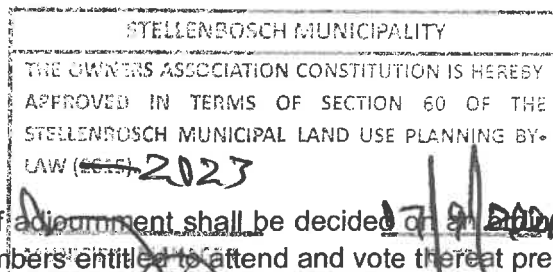
23. AGENDA AT MEETINGS

In addition to any other matters required by legislation or by this Constitution to be dealt with at any annual general meeting, the following matters shall be dealt with at every annual general meeting:

- 23.1 the consideration of the Chairman's report;
- 23.2 the election of Member Trustees;
- 23.3 the consideration of the financial statements of the Association for the last financial year of the Association preceding the date of such meeting.



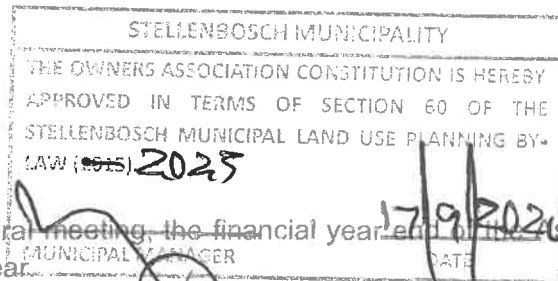
- 23.4 the consideration of the budget as presented by the Trustees and confirmation of levies as currently levied by the Trustees.
- 23.5 any other business pertinent to such meeting, including any Resolutions proposed for adoption by such meeting and the voting upon any such Resolutions.
- 24. PROCEDURE AT MEETINGS**
- 24.1 The Chairman shall preside as such at all meetings provided that should he not be present within fifteen (15) minutes after the time appointed for the holding thereof, then the Trustees present at such meetings shall vote to appoint a Chairman for the meeting who shall thereupon exercise all the powers and duties of the Chairman in relation to such meeting.
- 24.2 The Chairman may, with the consent of any meeting at which a quorum is present (and if so directed by the meeting), adjourn a meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business that might have been transacted at the meeting from which the adjournment took place save for an announcement at the meeting of the date, time and venue of the adjourned meeting unless the meeting is to be adjourned for thirty (30) days or more, in which event notice is to be given in the same manner as for the original meeting. Only business left uncompleted at the original meeting may be transacted at the adjourned meeting.
- 25. VOTING**
- 25.1 At every annual general meeting or general meeting every Member in person or by proxy and entitled to vote shall be allocated voting rights as follows:
- 25.1.1 the registered owner of an Erf: one (1) vote per Erf registered in his name, provided that if an Erf is registered in more than one person's name, then they shall jointly have one (1) vote;
- 25.1.2 in respect of the Body Corporate Members, 0,5 of a vote for each Member.
- 25.2 At any meeting of Members a Resolution put to the vote at the meeting shall be decided on a show of hand unless before or on the declaration of the result of the show of hand a poll shall be demanded by an Member. If a poll is duly demanded it shall be taken in such manner as the Chairman directs and the result of the poll be deemed to be the Resolution of the meeting at which the poll was demanded.
- 25.3 Save as expressly provided for in this Constitution, no person other than a Member duly registered and who shall have paid every levy and other sum (if any) which shall be due and payable to the Association in respect of or arising out of his membership and who is not under suspension, shall be entitled to be present and to vote on any question either personally or by proxy.
- 25.4 At any annual general meeting or general meeting a Resolution put to the vote at the meeting shall be decided on an ordinary majority of votes represented by Members entitled to attend and vote thereon present in person or by proxy in accordance with the value of votes recorded in clause 25.1.



- 25.5 Voting on any question of adjournment shall be decided on an ordinary majority of votes represented by Members entitled to attend and vote thereat present in person or by proxy.
- 25.6 Every Resolution and every amendment of a Resolution proposed for adoption by a general meeting shall be seconded at the meeting and, if not seconded, shall be deemed not to have been proposed.
- 25.7 Unless any Member present in person or by proxy at a meeting shall, before closure of the meeting, have objected to any declaration made by the Chairman of the meeting as to the result of any voting at the meeting, or to the propriety or validity of the procedure at such meeting, such declaration by the Chairman shall be deemed to be a true and correct statement of the voting and the meeting shall be deemed to have been validly constituted and conducted and an entry in the minutes of the Association to the effect that a motion has been properly and validly constituted and conducted and an entry in the minutes of the Association to the effect that any motion has been carried or lost with a record of the number of votes recorded in favour of or against such motion shall be conclusive evidence of the Resolution so recorded if such entry conforms with the declaration made by the Chairman of the meeting as to the result of any voting at the meeting.
- 26. MINUTES OF MEETINGS OF THE ASSOCIATION**
- 26.1 The Trustees shall:
- 26.1.1 ensure that minutes are taken of every meeting of the Association, although not necessarily verbatim, which minutes shall be reduced to writing without undue delay after the meeting has closed and shall then be certified correct by the Chairman of the meeting;
- 26.1.2 cause such minutes to be kept of all such meetings of the Association in a minute book of meetings of the associations kept for the purpose.
- 26.2 The Trustees shall keep all minute books of meetings of the Association in perpetuity.
- 26.3 On the written application of any Members the Trustees shall make all minutes of the proceedings and/or meetings of the Association available for inspection by such Members.
- 26.4 All Resolutions recorded in the minutes of any meetings of the Association shall be valid and of full force and effect as therein recorded, with effect from the passing of such Resolutions and, until varied or rescinded but no resolution or purported Resolutions of the Association shall be of any force or effect, or shall be binding upon the Members or any of the Trustees unless such Resolution is competent within the powers of the Association.
- 26.5 Save as otherwise provided in this Constitution, the proceedings at any meeting of the Association shall be conducted in such reasonable manner and form as the Chairman of the meeting shall decide.

27. FINANCIAL YEAR END

~~The financial year end of the Association is the last day of February of each year.~~



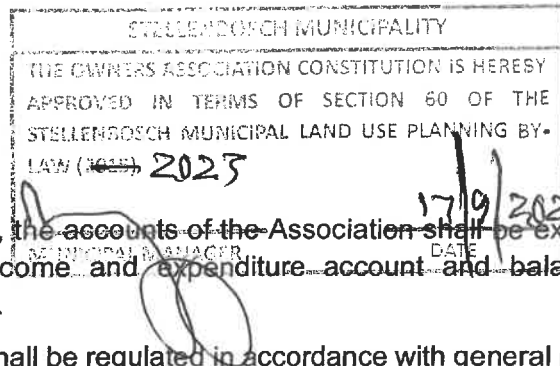
Unless otherwise decided at a general meeting, the financial year of the Association is the last day of September of each year.

28. ACCOUNTS

- 28.1 The Trustees shall cause proper books of account and records to be kept so as fairly to explain the transactions and financial position of the Association including:
- 28.1.1 a record of the assets and liabilities of the Association;
 - 28.1.2 a record of all sums of money received and expended by the Association and the matters in respect of which such receipt and expenditure occur;
 - 28.1.3 a register of Members showing in each case their addresses;
 - 28.1.4 individual ledger accounts in respect of each Member;
- 28.2 On the application of any Member the Trustees shall make all or any of the books of account and records available for inspection by such Member.
- 28.3 The Trustees shall cause all books of account and records to be retained for a period of six (6) years after completion of the transactions, acts or operations to which they relate.
- 28.4 The Association in general meeting or the Trustees may from time to time make reasonable conditions and regulations as to the time and manner of the inspection by Members of the accounts and books of the Association, or any of them, and subsequent 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.
- 28.5 At each annual general meeting the Trustees shall lay before the Association financial statements for the immediately preceding financial year of the Association or, in the case of the first period since the date of commencement of the Association, for that period. Such financial statements shall be drawn up in accordance with generally accepted accounting practice and shall be accompanied by such additional reports as may be necessary at the discretion of the Trustees.

29. DEPOSIT AND INVESTMENT OF FUNDS

- 29.1 The Trustees shall cause all moneys received by the Association to be deposited to the credit of an account/s with a registered commercial bank in the name of the Association and, subject to any direction given or restriction imposed at a general meeting of the Association, such moneys shall only be withdrawn for the purpose of payment of the expenses of the Association.
- 29.2 Any funds not immediately required for disbursement must be invested in a savings or similar account with any financial institution or any other registered deposit receiving institution approved by the Trustees from time to time.
- 29.3 Interest on moneys shall be used by the Association for any lawful purpose in the interest of the Association.



30. AUDIT

- 30.1 Once at least in every year, the accounts of the Association shall be examined and the correctness of the income and expenditure account and balance sheets ascertained by the Auditors.
- 30.2 The duties of the Auditors shall be regulated in accordance with general practice and applicable professional standards.

31. INDEMNITY

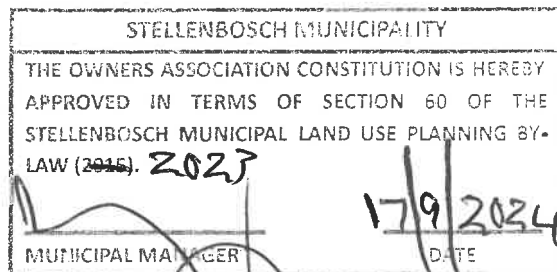
- 31.1 All the Trustees are indemnified by the Association against any liabilities bona fide incurred by them in their capacities as such and in the case of the Chairman in his capacity as Chairman, as well as for all costs, losses and expenses (including travelling expenses) which they may incur or become liable for by reason of any authorised contract entered into, or any authorised act or deed done, in the discharge of any of their duties and, without detracting from the generality thereof, whether defending any proceedings, civil or criminal or otherwise in which relief is granted by a court.
- 31.2 A Trustee shall not be liable for the acts, or omission of the Auditors or of any of the other Trustees whether in their capacities as Trustees or as Chairman or for any loss or expense sustained or incurred by the Association through the insufficiency or deficiency of any security in or upon which moneys of the Association are invested or for loss or damage arising from the insolvency or wrongful act of any person with whom any moneys, securities or effects are deposited or for any loss or damage occasioned by any error of judgement or oversight on his part or for any loss, damage or misfortune of whatsoever nature occurring in the execution of his duties or in relation thereto unless occurring as a result of *mala fides*, breach of duty or breach of trust.

32. DEFAMATION PRIVILEGE

Every Member of the Association and every Trustee shall be deemed by virtue of his membership or, as the case may be, his holding office as a Trustee, to have waived as against every other Member, the Chairman, every other Trustee, and everybody else engaged to perform any function or duty on behalf of or for the benefit of the Association, or the Trustees, or any sub-committee, all claims and rights of action which such Member or Trustee might otherwise have had in law arising as a result of any statement, report, complaint or notice of or concerning such Member or Trustees, or otherwise in the performance or exercise of any duties under this Constitution, being a statement, report, complaint, notice or reference defamatory to such Member or Trustee, or otherwise injurious to the dignity, reputation, business or financial interest of such Member or Trustee, whether such statement be true or false.

33. OWN RISK

Any person using any of the services, land or facilities of the Association does so entirely at his own risk.



34. TRANSFER OF LAND

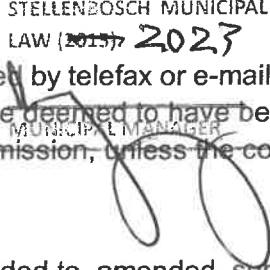
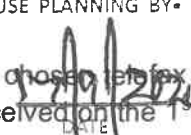
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35. ARBITRATION

- 35.1 Any dispute arising from or in connection with this Constitution shall be finally resolved in accordance with the rules of the Arbitration Foundation of Southern Africa by an arbitrator or arbitrators appointed by the Foundation.
- 35.2 Notwithstanding anything to the contrary herein contained, in respect of any claim arising from non-payment of levies or any other amount due by a Member to the Association in terms of this Constitution, the Association and Trustees shall continue to enjoy common law rights and shall not be precluded from instituting proceedings in any court of competent jurisdiction.
- 35.3 Notwithstanding the provisions of this clause, the parties concerned shall be entitled to apply to CSOS for relief or institute legal proceedings by way of application, action or otherwise in any Court having jurisdiction.

36. DOMICILIUM

- 36.1 The Trustees shall from time to time determine the address constituting the domicilium citandi et executandi of the Association, subject to the following:
- 36.1.1 such address shall be the address of any duly appointed Managing Agent;
- 36.1.2 the Trustees shall give notice to all Members of any change of such address.
- 36.2 The domicilium citandi et executandi of each Member shall be the street address of the Member's Erf.
- 36.3 It shall be competent to give notice by telefax or e-mail where the Member's telefax number or e-mail address is recorded with the Trustees.
- 36.4 A Member may by notice in writing to the Trustees alter his domicilium provided such new address may not be a post office box or post restante and provided such address is within the Republic of South Africa and shall not be effective until fourteen (14) days after receipt of such notification.
- 36.5 Notwithstanding anything to the contrary herein contained, a written notice or communication actually received by a Member shall be adequate written notice of communication to such Member notwithstanding that it was not sent to or delivered at his domicilium citandi et executandi.
- 36.6 Any notice to a Member
- 36.6.1 sent to him by prepaid registered post in a correctly addressed envelope at his domicilium citandi et executandi shall be deemed to have been received on the 7th (seventh) day after posting (unless the contrary is proved); or
- 36.6.2 delivered by hand to a responsible person at his domicilium citandi et executandi shall be deemed to have been received on the day of delivery; or

STELLENBOSCH MUNICIPALITY	
THE OWNERS ASSOCIATION CONSTITUTION IS HEREBY APPROVED IN TERMS OF SECTION 60 OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW (2015) 2023	
	
MUNICIPAL MANAGER	DATE

36.6.3 successfully transmitted by telefax or e-mail to his chosen telefax number or e-mail address shall be deemed to have been received on the 1st (first) day after the date of transmission, unless the contrary is proved.

37. AMENDMENT

37.1 No provision hereof shall be added to, amended, substituted or repealed without the prior consent in writing of

37.1.1 the Local Authority; and

37.2 Subject to the provisions of clause 37, such addition amendment, substitution, or repeal shall require the approval of at least 51% (fifty one per centum) of the total number of votes of Members of the Association given at a general meeting called specifically for such purpose and the notice of such meeting shall, in addition to complying with the requirements for the convening of a meeting, set out in specific terms the proposed addition, amendment, substitution or matter to be repealed.

38. SALES LEVIES

Delete.

39. TRUSTEES' MEETINGS BY ELECTRONIC COMMUNICATION

39.1 The Trustees may conduct a meeting of Trustees entirely by Electronic Communication or provide for participation in a meeting by Electronic Communication, and the power of the Trustees to do so is not limited or restricted by this Constitution. Accordingly:

39.1.1 any meeting of Trustees may be conducted entirely by Electronic Communication; or

39.1.2 one or more Trustees may participate by Electronic Communication in all or part of any meeting of the Trustees that is being held in person;

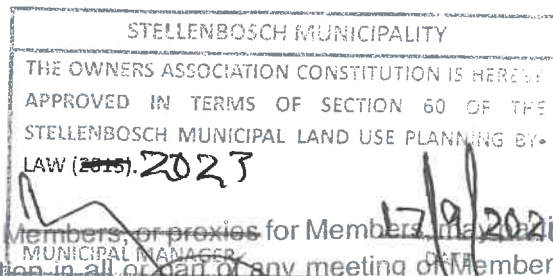
so long as the Electronic Communication employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other and without an intermediary, and to participate reasonably effectively in the meeting.

39.2 A person who attends a meeting as provided under clause 39.1 is considered present in person at the meeting.

40. GENERAL MEETINGS BY ELECTRONIC COMMUNICATION

40.1 The Association may conduct a meeting of Members entirely by Electronic Communication or provide for participation in a meeting by Electronic Communication, and the power of the Association to do so is not limited or restricted by this Constitution. Accordingly:

40.1.1 any meeting of Members may be conducted entirely by Electronic Communication; or



40.1.2 one or more Members, or proxies for Members, may participate by Electronic Communication in all or part of any meeting of Members that is being held in person;

so long as the Electronic Communication employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other and without an intermediary, and to participate reasonably effectively in the meeting.

40.2 Any notice of any general at which it will be possible for Members to participate by way of Electronic Communication shall inform Members of the ability to so participate and shall provide any necessary information to enable Members or their proxies to access the available medium or means of Electronic Communication, provided that such access shall be at the expense of the Member or proxy concerned.

40.3 A person who attends a meeting as provided under clause 40.1 is considered present in person at the meeting.

41. TAX EXEMPTION

41.1 In order to qualify for exemption in respect of the Levy income in terms of Section 10(1)(e)(i)(cc) of the Income Tax Act, the following provisions shall apply:

41.1.1 the main objective of the Association is to manage the collective interest common to all its Members, which includes expenditure applicable to the common property of such Members and the collection of Levies for which such Members are liable;

41.1.2 the Association is not permitted to distribute its funds to any person other than to a similar Association of persons;

41.1.3 on dissolution, the remaining assets of the Association, must be distributed to a similar Association of persons, which is also exempt from Income Tax in terms of section 10(1)(e)(i)(cc) of the Income Tax Act;

41.1.4 any amendments to this Constitution shall be submitted to the Commissioner for the South African Revenue Service;

41.1.5 funds available for investment shall only be invested with a supervised entity as defined in section 1 of the Financial Sector Regulations Act, 2017, as amended from time to time and includes any substituted legislation;

41.1.6 the Association is or was not knowingly a party to, or does not knowingly permit or has not knowingly permitted, itself to be used as part of any transaction, operation or scheme of which the sole or main purpose is or was the reduction, postponement or avoidance of liability for any tax, duty or levy which, but for such transaction, operation or scheme, would have been or would become payable by any person under the Income Tax Act or any other Act administered by the Commissioner for the South African Revenue Service;

41.1.7 annual returns of income tax together with financial statements shall be submitted to the Tax Exemption Unit.

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