STELLENBOSCH
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Application Number: LU/18346
Our File Reference Number: Erf 163 Koelenhof
Your Reference Number:
Enquiries: Ulrich von Molendorff
Contact No: 021– 808 8682
Email address: Ulrich.Vonmolendorff@stellenbosch.gov.za

PER E-MA [redacted]

Sir / Madam

APPLICATION FOR AMENDMENT OF A CONDITION OF APPROVAL TO AMEND THE CONSTITUTION OF THE KOELENBOSCH COUNTRY ESTATE PROPERTY OWNERS ASSOCIATION: ERF 163, KOELENHOF.

1. The above application refers.

2. The duly authorised decision maker has decided hereby decides on the above application as follows.

3. That the following application(s) in terms of Section 15(2) of the Stellenbosch Municipal Land Use Planning Bylaw,

   3.1. The amendment of a condition of approval in terms of Section 15(2)(h) of the said bylaw, to enable the replacement of the Constitution of the Koelenbosch Country Estate Property Owners Association by amending Section 7.2.1 as follows;

   Current Clause:
   EXCOM members shall be elected annually at the Annual General Meeting and shall, subject to the provisions herein contained, remain in office until the following Annual General Meeting. No Member shall be eligible to serve on the Excom for more than 2 (Two) successive terms. This condition does however not include the Developer of the Estate whose representative will be entitled to serve on the EXCOM for as long as it owns Property in the Estate.

   To be amended as follows:

   EXCOM members shall be elected annually at the Annual General Meeting and shall, subject to the provisions herein contained, remain in office until the following Annual General Meeting. No Member shall be eligible to serve on the Excom for more than five successive terms unless specifically proposed to do so and only then with an 80% approval from homeowners at the AGM. (See **Annexure A** for amended constitution)

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

4. The approval is subject to the following conditions imposed in terms of Section 66 of the said Bylaw:

   4.1. The approval only applies to the proposed application 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.
   4.2. The approval granted shall not exempt the applicant from complying with any other legal prescriptions or requirements that might have a bearing on the proposed use.
   4.3. The Koelenbosch Country Estate Property Owners Association be subject to the endorsed Constitution of the Koelenbosch Country Estate Property Owners Association attached as **ANNEXURE A.**

5. The reasons for the above decision are as follows:

   5.1. The amendment of the constitution will not change the previous approvals granted.
   5.2. No public amenities and services will be affected by the amendments.
   5.3. The amendments primarily deal with better internal arrangements and administration of the Property Owners Association, and will not affect the rights of the owners in the estate.

6. Matters to be noted:

   6.1. None

7. 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.

8. 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.

9. **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**

10. 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.

11. 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.

12. 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.

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www.stellenbosch.gov.za

(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.

13. Kindly note that no appeal right exists in terms of Section 62 of the Local Government Municipal Systems Act, No 32 of 2000.

14. 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

MANAGER: LAND USE MANGEMENT (Chrizelle Kriel)
{In terms of Category H(1) of the System of Delegations}

DATE: 16-07-2025

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APPENDIX A

New Constitution

Dear Homeowners,

This serves to advise that I met with one of the senior town planners on Friday morning, who deals with the constitution, at Stellenbosch Municipality. The trustees voted in stand with immediate effect as does change to the constitution which will be endorsed by the municipality this week.

The new wording in yellow will substitute the old wording in green.

We attach the updated Constitution for your attention.

"EXCOM members shall be elected annually at the Annual General Meeting and shall, subject to the provisions herein contained, remain in office until the following Annual General Meeting. No Member shall be eligible to serve on the Excom for more than five successive terms unless specifically proposed to do so and only then with an 80 % approval from homeowners at the AGM.

EXCOM members shall be elected annually at the Annual General Meeting and shall, subject to the provisions herein contained, remain in office until the following Annual General Meeting. No Member shall be eligible to serve on the Excom for more than 2 (Two) successive terms. This condition does however not include the Developer of the Estate whose representative will be entitled to serve on the EXCOM for as long as it owns Property in the Estate."

Best Regards
Dave Deeble
Chairman

Caron Smith
Sectional Title Administrator

STONEWOOD
Property Management

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For any further information on privacy, refer to our **Privacy Policy** and **Compliance Requirements** which is available on the Firm website.

Stonewood Properties (Pty) Ltd is a Business Property Practitioner that holds a FFC in the capacity of a Business Practitioner and operates trust accounts.

CONSTITUTION OF THE KOELENBOSCH COUNTRY ESTATE PROPERTY OWNERS ASSOCIATION

STELLENBOSCH MUNICIPALITY
THE OWNERS ASSOCIATION CONSTITUTION IS HEREBY APPROVED IN TERMS OF SECTION 60 OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW (2019). 2023
30/7/2025
MUNICIPAL MANAGER

1. NAME

The name of the Association is:

THE KOELENBOSCH COUNTRY ESTATE PROPERTY OWNERS ASSOCIATION

2. DEFINITIONS AND INTERPRETATION

In this Constitution, unless the context indicates the contrary:

2.1 "**Association**" shall mean the **KOELENBOSCH COUNTRY ESTATE PROPERTY OWNERS ASSOCIATION**;

2.2 "**Common Property**" shall mean the private open spaces, private roads and land required for services provided by the Association;

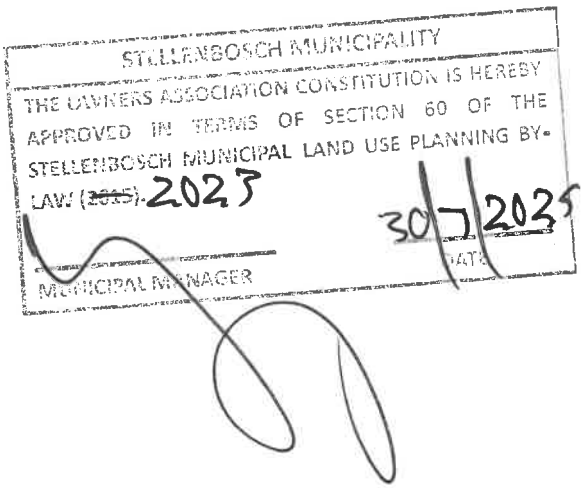
2.3 "**Constitution**" shall mean this Constitution of the Association as may be amended from time to time.

2.4 "**Conduct Rules**" shall mean the conduct rules of the Association as prepared by the Developer and as may be amended from time to time by EXCOM;

2.5 "**Design Manual**" shall mean the architectural and landscape architectural design guidelines for the Estate as prepared by the Developer and as may be amended from time to time by EXCOM;

2.6 "**developer**" shall mean The Trustees for the time being of Mont Simon Trust, Registration number : IT2241/2006 or its successors in title;

2.7 "**Estate**" shall mean the KOELENBOSCH COUNTRY ESTATE established or to be established on the Site, arising from the subdivision of the Site as reflected on General Plan No. 2546/2014 and includes any additional areas as may be incorporated as further phases into the Estate in terms of clause 22 below;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LAW (2015). 2023
MUNICIPAL MANAGER
30/7/2025
DATE

2.8 "**Financial year**" shall mean the financial year of the Association which shall run from the 1st of March of each year to the last day of February of the following year unless otherwise resolved by EXCOM or by the Members in general meeting.

2.9 "**Invitees**" shall mean the employees, servants, workers, contractors, agents, service providers, visitors, guests, or other invitees of Members or Occupiers, present in the Estate.

2.10 "**person**" shall include a Company, Club, Partnership, Trust, Closed Corporation or other Association of persons entitled in law to hold title to immovable property;

2.11 "**Property**" shall mean one or more of the seventy four erven in the KOELENBOSCH COUNTRY ESTATE and "**Erf**" or "**Erven**" or "**Properties**" shall have a corresponding meaning but excluding the erven which comprise Common Property;

2.12 "**Member**" shall mean a Member of the Association as defined in Clause 5 hereof;

2.13 "**Occupier**" shall mean the tenant or other occupant of a Property;

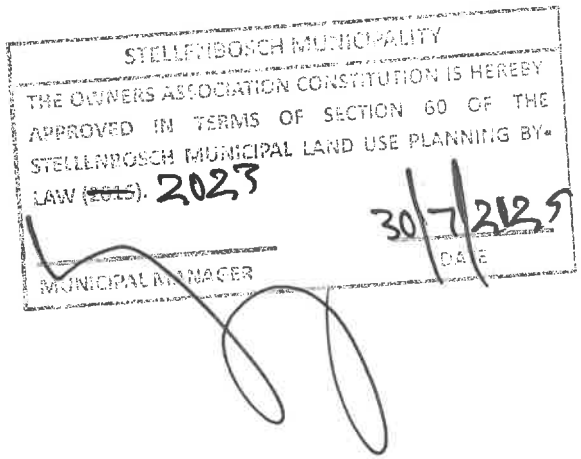
2.14 "**Site**" shall mean Erf 82 Koelenhof, situate in the Municipality and Division of Stellenbosch, Province of the Western Cape;

2.15 "**Stellenbosch Municipality**" shall mean the Municipality of Stellenbosch as defined in the Stellenbosch Planning By-law and its successors in title;

2.16 "**Stellenbosch Planning By-law**" shall mean the Stellenbosch Municipality Land Use Planning By-law, 2015, as may be amended from time to time;

2.17 words importing the singular shall include the plural and the converse shall also apply; the masculine gender shall include feminine and neuter genders and the neuter gender shall include the masculine and feminine genders.

2.18 words importing the singular number shall include the plural and the converse shall also apply;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STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-
LAW (2015). 2023
30/7/2025
MUNICIPAL MANAGER
DATE

2.19 the head notes to the Clauses in this Constitution are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.

2.20 a reference to any one gender shall include the other genders;

3. ESTABLISHMENT OF THE ASSOCIATION

3.1 The Association shall be constituted as an owners' association in terms of section 29(1) of the Stellenbosch Planning By-law in accordance with the conditions imposed by Stellenbosch Municipality when approving the subdivision of the Site.

3.2 The Association is a juristic person and must have a constitution which must be approved by Stellenbosch Municipality before the transfer of the first Erf.

3.3 The Association shall be automatically constituted upon registration in the Deeds Registry of the first Property rising from the subdivision of the Site from the Developer to a purchaser thereof. The constitution of the Association shall take effect on the registration of the first Property.

3.4 The Constitution of the Association may have other objects as set by the Association but may not contain provisions that are in conflict with any law.

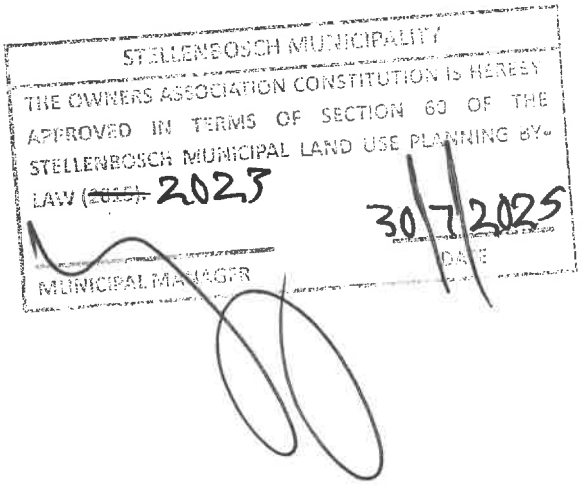
4. OBJECTS OF THE ASSOCIATION

The objects of the Association are:

4.1 Through its Executive Committee (EXCOM), to promote and enforce standards for community living in such a way that Members may derive the maximum collective benefit from it;

4.2 To formally represent the collective mutual interests of the area, suburb or neighbourhood set out in the Constitution in accordance with the conditions of approval;

4.3 The control over and maintenance of buildings, services or amenities arising from the subdivision;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STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-
LAW (2019) 2023
30/7/2025
DATE
MUNICIPAL MANAGER

4.4 To control, develop and maintain the KOELENBOSCH COUNTRY ESTATE for the mutual benefit of the Members;

4.5 That the Association, through its said EXCOM, shall have the power to do such acts as are necessary and reasonably required to give effect to the provisions of the Constitution;

4.6 To decide on future actions of mutual benefit regarding for instance, security, maintenance etc;

4.7 The control over the architectural guidelines of the buildings and Properties arising from the subdivision;

4.8 To ensure that all building plans and specifications in respect of proposed improvements as well as the actual improvements are in accordance with and comply with the aesthetic appearance of the Estate, provided that neither the Excom nor anyone else will have the power to approve any alterations which entail the convergence of the garages of any dwelling for any other use. It is an express, unchangeable condition of this constitution that no owner will be allowed the use its garage for any other purpose than the normal use of a garage.

4.9 To control, administer and manage the maintenance of the private roads, street lightning, open spaces, retention facilities and all internal services in respect of the Koelenbosch Country Estate.

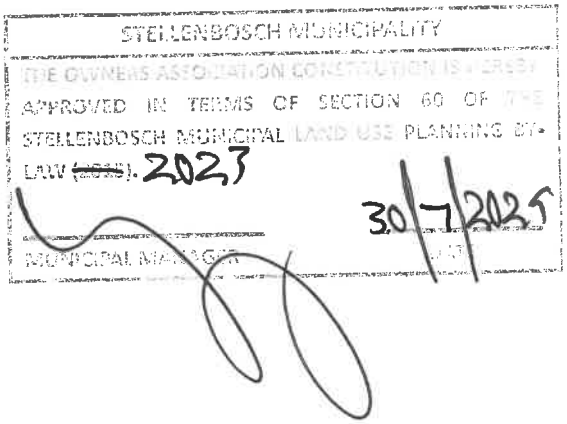
4.10 The regulation of at least one annual meeting with its Members;

4.11 To take ownership of the Common Property arising from the subdivision;

4.12 The enforcement of conditions of approval or management plans;

4.13 To provide for procedures to obtain the consent of the Members of the Association to transfer Properties in the event that the Association ceases to function;

4.14 The implementation and enforcement by the Association of the provisions of the Constitution.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LAW (~~2019~~). 2023
30/7/2025
MUNICIPAL MANAGER

4.15 To regulate the conduct of persons within the Estate to prevent any nuisance to a Member or Occupier, and to administer and enforce Conduct Rules to ensure a good standard of conduct for persons within the Estate;

4.16 To promote waste minimization and ensure that high environmental standards are maintained within the Estate;

4.17 To establish a levy fund for expenses of the Association, including provision for future expenses and contingencies, and to determine and collect subscriptions or levies for the purpose of the said fund from the Members;

4.18 To control the Alienation, transfer, letting and use of Erven within the Estate;

4.19 To take action as deemed necessary by EXCOM in relation to the non-compliance by any Member or Occupier with any provisions of the Constitution, the Architectural Guidelines or the Conduct Rules and to impose penalties upon Members in respect of contraventions; and

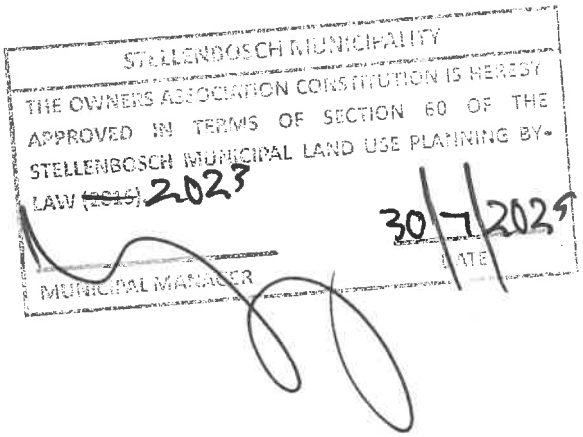
generally to do all such things as may be necessary or requisite to give effect to and implement and enforce the objects of the Association and to do all such things ancillary or incidental to the objects, and the Association, through EXCOM, shall have all the powers that are necessary to accomplish the fulfilment of the aforegoing objects.

5. MEMBERS

5.1 The Association shall be organised without capital and membership thereof shall be evidenced by registered ownership in the Deeds Registry in Cape Town of one or more Erven in the Estate. Upon registration of ownership, membership of the Association shall be automatic and Members shall be obliged to comply with the provisions of this Constitution. No persons shall be entitled to cease to be a Member of the Association while remaining the registered owner of an Erf in the Estate;

5.2 Each Member shall be entitled to ONE (1) vote for each Erf owned in the Estate, which consists of the SEWENTY FOUR (74) Erven;

5.3 Ownership of a Erf in undivided shares shall constitute only one membership, which membership shall be represented by one individual in terms of the provisions of Clause 8.10 hereof;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STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-
LAW (~~SBS15~~) 2023
30/7/2025
MUNICIPAL MANAGER

5.4 Membership shall be transferred by the registration of a Deed of Transfer in the Deeds Registry in Cape Town, passing transfer of one or more Erf in the Estate to the new Member;

5.5 Every Member shall pay an equal annual levy per Erf to the Association, in respect of each Erf owned by a Member, the amount of which shall be determined by EXCOM in terms of Clause 10 hereof. With the approval of the EXCOM, said levies can be paid in equal monthly instalments in which case the Member electing this method of payment will be obliged to sign the standard debit order form as presented to such Member by the EXCOM.

6. POWERS EXERCISED BY EXCOM

The powers of the Association other than those to be exercised by the Members in General Meeting, shall be exercised by EXCOM.

7. EXECUTIVE COMMITTEE (EXCOM)

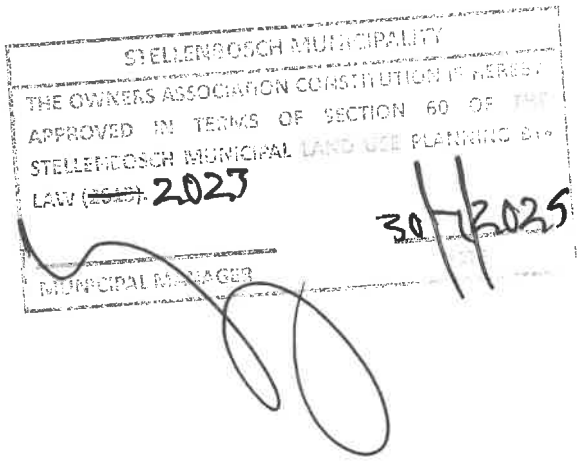
7.1 COMPOSITION

The number of EXCOM members shall be determined from time to time by the Members of the Association in General Meeting, provided that there shall not be less than THREE (3) nor more than FIVE (5) EXCOM members. The representative of the Developer of the Estate will be entitled to serve on the EXCOM for as long as it owns Property in the Estate.

7.2 ELECTION AT ANNUAL GENERAL MEETING

7.2.1 EXCOM members shall be elected annually at the Annual General Meeting and shall, subject to the provisions herein contained, remain in office until the following Annual General Meeting. No Member shall be eligible to serve on the Excom for more than five successive terms unless specifically proposed to do so and only then with an 80% approval from homeowners at the AGM.

7.2.1 Nominations of candidates for election to EXCOM at any meeting shall be in writing, signed by TWO (2) Members and accompanied by the written consent of the candidate nominated, so as to be received at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STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-
LAW (2019) 2023
30/7/2025
MUNICIPAL MANAGER

the *domicilium* of the Association no later than FORTY-EIGHT (48) hours before the meeting;

7.2.2 EXCOM members may fill any vacancy in their number or co-opt any additional member, provided that the number of EXCOM members shall not exceed FIVE (5). Any EXCOM member so appointed or co-opted shall hold office until the next Annual General Meeting when he shall retire and be eligible, subject to the provisions of clause 7.2.1 above, for re-election as though he had been elected at the previous Annual General Meeting.

7.3 VACATION OF OFFICE

An EXCOM member shall cease to hold office as such if:

7.3.1 by notice in writing to EXCOM, he resigns his office;

7.3.2 he is or become of unsound mind;

7.3.3 he surrenders his estate as insolvent or his estate is sequestrated;

7.3.4 he is convicted of an offence which involves dishonesty;

7.3.5 he absents himself from THREE (3) consecutive meetings of EXCOM without special leave of absence from EXCOM;

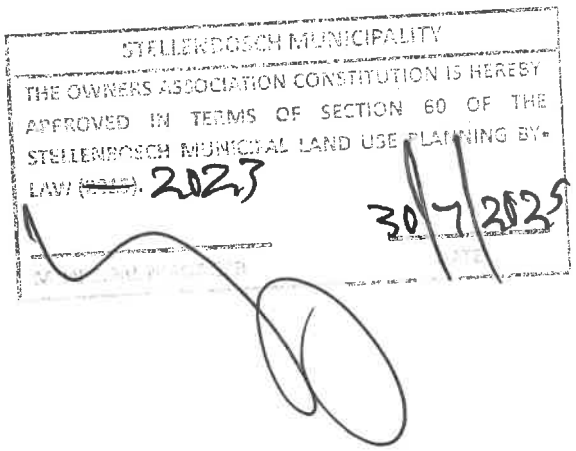
7.3.6 by resolution of a General Meeting of the Association, he is removed from his office;

7.3.7 if the Member's property is sold.

7.4 MEETINGS AND PROCEDURES THEREAT

7.4.1 EXCOM members may give notice convening meetings, meet together for the dispatch of business, adjourn or otherwise regulate their meetings as they think fit. It shall not be necessary to give notice of a meeting to any EXCOM member currently absent from the Republic;

7.4.2 An EXCOM member may at any time convene a meeting of EXCOM by giving to the other EXCOM members no less than TEN (10) days


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
30/7/2023

written notice of a meeting proposed by him, which notice shall specify the reason for calling such a meeting, provided that in case of urgency shorter notice may be given within reason and according to circumstances;

7.4.3 THREE (3) EXCOM members shall form a quorum. If at any meeting a quorum is not present within THIRTY (30) minutes of the appointed time of the meeting, such meeting shall stand adjourned to the next business day at the same time;

7.4.4 If the number of EXCOM members falls below the number necessary to form a quorum, the remaining members may constitute a quorum, but only for the purpose of convening a General Meeting of members;

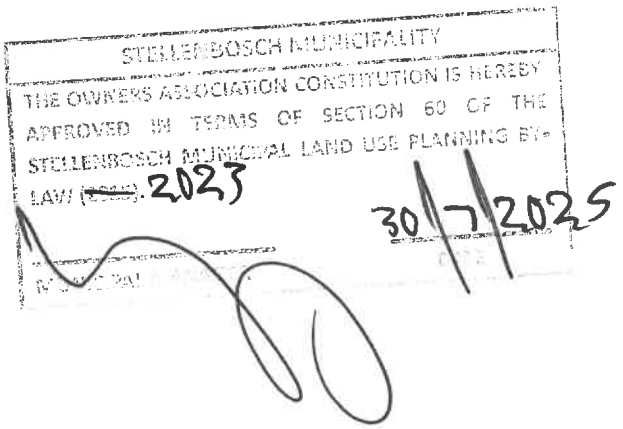
7.4.5 At the commencement of the first meeting of EXCOM after each Annual General Meeting, EXCOM members shall elect a Chairman from their number who shall hold office as such until the end of the next ensuing Annual General Meeting and such Chairman shall have a casting as well as a deliberative vote. If any Chairman vacates his office or is removed from it by the members of a General Meeting, the EXCOM members shall elect another Chairman who shall hold office for the remaining period in respect of which the first mentioned Chairman was elected and he shall have the same rights of voting;

7.4.6 All matters at any meeting of EXCOM shall be determined by a majority of those present and voting provided that a quorum is present at such a meeting;

7.4.7 EXCOM members may from time to time appoint a person to be Secretary of the Association, to fulfil the normal functions of a Secretary and, *inter alia*, to attend all meetings and keep Minutes thereof.

7.5 POWERS OF EXCOM

The Management and administration of the Association shall vest in EXCOM which may exercise all such powers of the Association and also, on behalf of the Association, all such acts as may be exercised by the Association itself and which are not, by its Constitution, required to be exercised or executed by the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STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-
LAW (2023).
30/7/2025

Association in a General Meeting. Without in any way limiting the generality of the aforegoing, such powers shall include but not be limited to the following:

7.5.1 the determination of what constitutes an appropriate standard for community living and the development and maintenance of Properties in the KOELENBOSCH COUNTRY ESTATE and to formulate, issue and amend Conduct Rules from time to time, subject to the directions given or restrictions imposed by the Members at general meetings of the Association;

7.5.2 the performance of such acts as are necessary to accomplish the objects expressed or implied herein;

7.5.3 the investment and re-investment of monies of the Association which are not immediately required, in such a manner as may be determined from time to time;

7.5.4 the operation of a banking account with all relevant powers;

7.5.5 the making of, entering into and carrying out of contracts of agreement for any of the purposes of the Association;

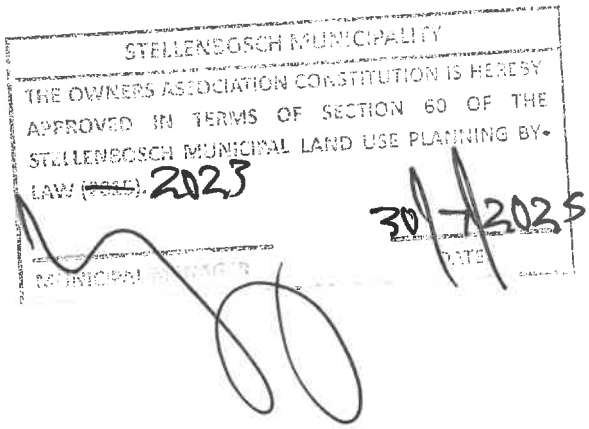
7.5.6 the employment and payment of agents, servants and any other parties;

7.5.7 to institute proceedings in the name of the Association, to defend actions in the name of the Association and to appoint legal representatives for this purpose; in particular and without derogating from the generality of the aforegoing, the power to sue shall include the right to sue Members for the payment of subscriptions in arrears and/or for the carrying out of their obligations in terms of the Constitution;

7.5.8 the levying of annual levies and special levies.

7.5.9 scrutinise all building plans and specifications of proposed improvements in the KOELENBOSCH COUNTRY ESTATE so as to ensure that the Development and Design Manual are adhered to.

7.6 BUILDING, ARCHITECTURAL AND DESIGN REQUIREMENTS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STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-
LAW (~~2019~~) 2023
30/7/2025
DATE

7.6.1 EXCOM must prescribe and enforce the development or building prescriptions, the general architectural guidelines and the material to be used in respect of any buildings to be erected or in respect of any alterations or additions to be carried out to existing buildings and in particular to control the exterior design of such buildings and the materials and colours used so as to ensure an attractive, aesthetic and pleasing character to the buildings in the KOELENBOSCH COUNTRY ESTATE, according to the Development and Design Manual (see Addendum) hereof;

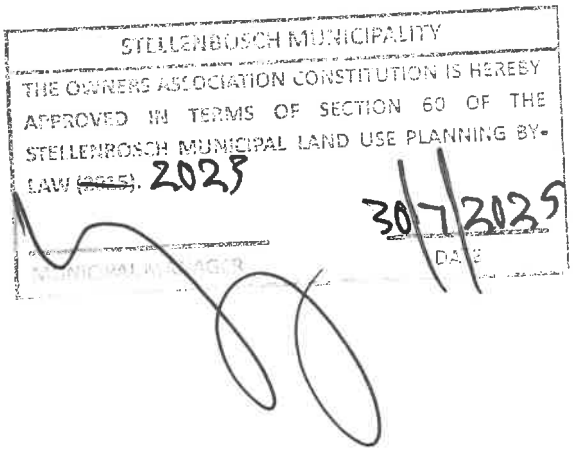
7.6.2 The provisions of 7.6.1 shall apply *mutatis mutandis* to other site works on a Member's Property, including but not limited to, fences, pergolas, boundary walls and paving.

7.6.3 To serve notice on any Member/owner who started building and has not completed such building work to the satisfaction of EXCOM within TWELVE (12) months from the date that such work was started, to complete such work within THREE (3) months of the date of such notice;

7.6.4 Take the necessary legal action against a Member/owner failing to comply with the notice served in terms of Clause 7.6.3 to effect the sale of such Property "voetstoots" by auction for the benefit of such a Member/owner who will be liable for the cost of such legal action and auction;

7.6.5 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 and sewage plans, whether such be for new constructions, renovations, alterations or additions;

7.6.6 Compel Members to comply with its requirements, and failing compliance therewith, to take steps to remedy such non-compliance at the cost of the Member; and without in any way limiting the generality of the aforegoing, 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 an appropriate order;


STELLENBOSCH MUNICIPALITY
THE OWNERS ASSOCIATION CONSTITUTION IS HEREBY APPROVED IN TERMS OF SECTION 60 OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW (2015). 2025
30/7/2025
DATE
MUNICIPAL MANAGER

7.6.7 If deemed necessary appoint professional advisors, e.g. an architect to scrutinise all plans to ensure that the architectural controls have been met.

7.6.8 Excom may from time to time amend the Design Manual, subject to the directions given or restrictions imposed by the Members on EXCOM at a general meeting of the Association.

7.7 VALIDITY OF ACTS OF EXCOM MEMBERS

Any act performed by EXCOM members shall, notwithstanding that it is after the performance of the act discovered that there was some defect in the appointment or continuance in office of any EXCOM member, be as valid as if such EXCOM member has been duly appointed in office.

7.8 REMUNERATION

EXCOM members shall be entitled to be repaid all reasonable and *bona fide* expenses incurred by them in connection with and incidental to the performance of their duties as EXCOM members but save as aforesaid, shall not be entitled to any other remuneration, fees or salary in respect of the performance of such duties.

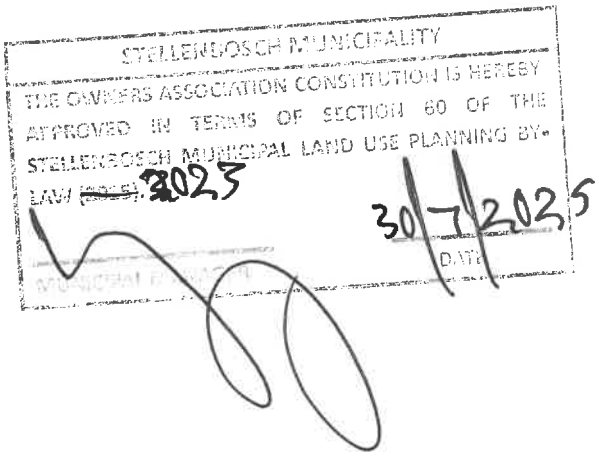
7.9 INDEMNITY

No EXCOM member shall be liable to the Association or any member thereof, or to any other person whomsoever for any act or omission by himself, by the Association or by its servants or agents. An EXCOM member shall be indemnified by the Association against any loss or damage suffered by him in consequence of any purported liability, provided that such member has, upon the basis of information known to him, or which should reasonably have been known to him, acted in good faith and without gross negligence.

8. GENERAL MEETINGS

8.1 ANNUAL GENERAL MEETINGS

The Developer shall call the first general meeting of the Association. EXCOM shall be elected at the first general meeting of the Association. Annual General


STELLENBOSCH MUNICIPALITY
THE OWNERS ASSOCIATION CONSTITUTION IS HEREBY
APPROVED IN TERMS OF SECTION 60 OF THE
STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-
LAW (2015).2025
30/7/2025
DATE

Meetings shall be held once every year at such time and place as may be determined by EXCOM, but so that no more than FIFTEEN (15) months shall be allowed to elapse between any TWO (2) such successive meetings. The business to be done at the Annual General Meeting shall include:

8.1.1 the receipt of a report on the affairs of the Association;

8.1.2 the election of members to EXCOM;

8.1.3 the adoption of the Balance Sheet and accounts;

8.1.4 the consideration of the budget, approved by EXCOM and the annual levies payable, determined by EXCOM;

8.1.5 the consideration of any Resolutions concerning the affairs of the Association of which due notice has been given;

8.1.6 any other business.

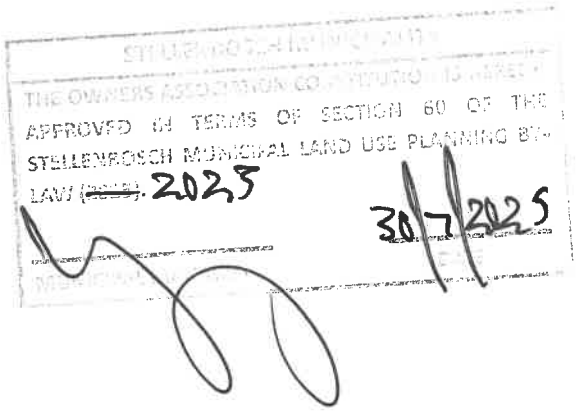
8.2 ORDINARY GENERAL MEETINGS

EXCOM may call an Ordinary General Meeting whenever it thinks fit. Ordinary General Meetings shall also be called upon the written request of not less than FIVE (5) members, directed to the Chairman of EXCOM.

8.3 NOTICE RE MEETINGS

An Annual General Meeting shall be convened by a minimum of TWENTY ONE (21) days' notice in writing and the Minutes of the previous Annual General Meeting shall be sent to members together with the notice convening the meeting. An Ordinary General Meeting shall be called by a minimum of FOURTEEN (14) days' notice in writing. The notice shall specify the place, the day and the hour of the meeting and the general nature of the matter to be discussed, provided that any general meeting shall, notwithstanding that it is called by shorter notice than that specified, be deemed to have been correctly called if it is agreed to by the vote of NINETY PERCENT (90%) of the members present at the general meeting.

8.4 VALIDITY OF MEETINGS


APPROVED IN TERMS OF SECTION 60 OF THE
STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-
LAW (2019). 2025
30/7/2025

The accidental omission of giving notice of a meeting to, or the non-receipt of a notice of a meeting by any person entitled to receive such notice, shall not invalidate the proceedings of that meeting. The provisions of this Clause shall not apply to EXCOM meetings.

8.5 QUORUM

No matters shall be discussed at any general meeting unless a quorum is present when the meeting commences. For ordinary and annual general meetings, the quorum shall be not less than EIGHT (8) or half of the total number of Members, whichever shall be the lesser, and consisting of Members present in person or represented by proxy.

8.6 ADJOURNMENT

If within half an hour from the time appointed for the holding of the meeting, a quorum is not present, the meeting, if convened on the request of Members, shall be dissolved. It shall stand adjourned to the same day in the next week at the same time and place. All Members of the Association shall be given notice of such an adjourned meeting.

If a quorum is not present at the adjourned meeting within half an hour from the time appointed for holding the meeting, the Members present shall constitute a quorum.

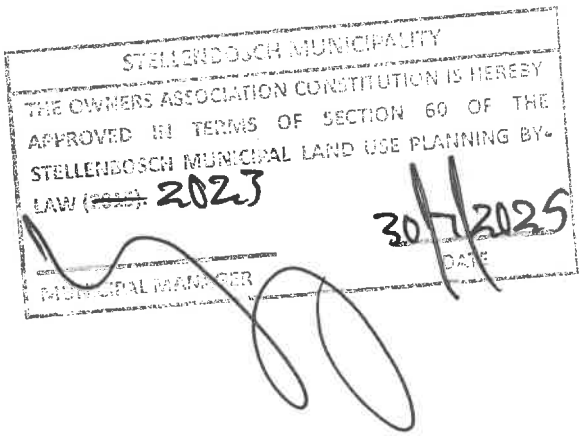
8.7 CHAIRMAN

The Chairman of EXCOM shall preside at every General Meeting, but if there be no such Chairman, the Members present shall choose a Chairman from the members of EXCOM, or if no such EXCOM members are present, they shall choose some other Member present to be Chairman of the meeting.

8.8 VOTES

At every General Meetings voting shall be in accordance with the following provisions:

8.8.1 Each Member present in person at the General Meeting shall have ONE (1) vote for every Erf registered in his name and each person


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
30/7/2025
DATE
MUNICIPAL MANAGER

present as proxy for a Member shall have ONE (1) vote for every Erf registered in the name of the Member for whom he is proxy.

8.8.2 A Resolution put to the vote at the General Meeting shall be decided on a show of hands unless before or on the declaration of the result of the show of hands a poll shall be demanded by any Member.

8.8.3 When a poll is duly demanded it shall be taken in such manner as the Chairman directs and the result of the poll shall be deemed to be the Resolution of the meeting at which the poll was demanded.

8.8.4 All Resolutions shall be by simple majority of those Members present in person or proxy at the meeting and voting;

8.8.5 the Chairman of the meeting shall count the votes cast for and against the Resolution and shall declare it carried or lost as the case may be;

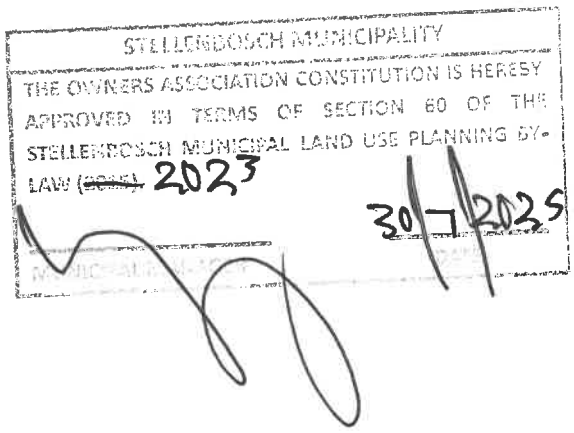
8.8.6 No vote may be exercised in respect of an Erf where the Member is in arrears with his levies or other amounts due to the Association for more than two (2) months and the Member concerned or the duly authorised representative of the Member who is a juristic person shall not be entitled to be appointed as an EXCOM member.

8.9 INCAPACITY

Should any Member be declared incapable of managing his own affairs, or a prodigal or insolvent, or in the case of a Company, placed under Judicial Management, or into liquidation, such Member shall be represented by his Curator Bonis, Trustee, Judicial Manager or Liquidator as the case may be, who shall be entitled to vote on his behalf, either personally or by proxy.

8.10 CO-OWNERSHIP

If two or more persons are jointly registered owners of a Property, then in voting upon any question, the vote of the senior, who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other registered owners of the Property, and for this purpose, seniority shall be determined by the dates of birth of the joint owners as recorded in the Deeds Registry, Cape Town. In the event of a Property being jointly owned by a natural


STELLENBOSCH MUNICIPALITY
THE OWNERS ASSOCIATION CONSTITUTION IS HEREBY
APPROVED IN TERMS OF SECTION 60 OF THE
STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-
LAW (2019) 2023
30 7 2025

person and a Company, then in such event the natural person shall cast a vote on behalf of such membership.

8.11 PROXY

8.11.1 Votes may be given either personally or by proxy.

8.11.2 The instrument appointing a proxy shall be in writing in the common form, or any form approved by EXCOM under the hand of the appointed, or his Attorney or agent, duly authorised in writing, or if such appointee is a Company, under the hand of an Officer duly authorised in that behalf.

8.11.3 The instrument of appointing a proxy, together with the Power of Attorney (if any) under which it is signed or a notarially certified copy thereof shall be deposited at the domicilium citandi of the Association at least TWENTY FOUR (24) hours before the time appointed for holding the meeting, or adjourned meeting, at which the person named in such instrument proposed to vote, otherwise the person so named shall not be entitled to vote in respect thereof.

8.12 COMPANIES / TRUSTS / CLOSED CORPORATIONS ETC.

Any of the above owners which is a Member of the Association may, through Resolutions of its Directors, Trustees, Members etc. or other governing body, authorise such person as it thinks fit to act as its representative at any general meeting of the Association and the person so authorised shall be entitled to exercise the same power on behalf of the Company which such person, as a representative of that Company, could exercise as if it were an individual Member of the Association. The aforegoing provisions shall apply *mutatis mutandis* in the case of a Trust.

9. THE STATUS OF THE ASSOCIATION

9.1 The Association shall be an Association:

9.1.1 with legal personality, capable of suing and being sued in its own name;

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

30/7/2025

MUNICIPAL MANAGER DATE

9.1.2 none of whose Members in their personal capacities shall have any right, title or interest to or in the property, funds or assets of the Association, which shall vest in and be controlled by EXCOM in terms hereof;

9.1.3 not for profit, but for the benefit of the owners and occupants of immovable property situate in the KOELENBOSCH COUNTRY ESTATE.

9.2 No part of the income of the Association may be paid or refunded to any Member, except to settle any debt to such Member that the Association may have. 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 EXCOM on behalf of the Members according to the objects of the Association.

9.3 The Association has the right to acquire, hold, lease and alienate property, both movable and immovable.

9.4 The sole object of the Association is to manage the collective interests common to all its Members, which includes expenditure applicable to the Common Property of the Estate and the collection of levies for which such Members are liable.

9.5 The Association is not permitted to distribute its funds to any person other than to a similar association of persons.

9.6 On dissolution the remaining assets must be distributed to a similar association of persons, which is also exempt from income tax in terms of section 10(1)(e)(iii) of the Income Tax Act.

9.7 Funds available for investment may only be invested or re-invested with registered Financial Institutions as defined in section 1 of the Financial Institutions (Protection of Funds) Act, No. 28 of 2001.

9.8 The Association is not 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 have become

STELLENBOSCH MUNICIPALITY

THE OWNER'S ASSOCIATION CONSTITUTION IS HEREBY APPROVED IN TERMS OF SECTION 60 OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW (~~2020~~). 2023

MUNICIPAL MANAGER

30/7/2025
DATE

payable by any person under the Income Tax Act or any other Act administered by the Commissioner for the South African Revenue Services.

9.9 The Association shall submit annual returns of income tax together with financial statements to the South African Revenue Services or similar relevant government departments as required.

9.10 Any amendments to clause 9 of the Constitution must be submitted to the Commissioner for the South African Revenue Services.

10. ANNUAL LEVIES

10.1 EXCOM shall establish and maintain a levy fund for the purpose of meeting all expenses of the Association for the control, management and administration of the Common Property and the services and amenities in respect of the Estate and for the payment of all expenses necessary or reasonably incurred in connection with the management of the Association and its affairs.

10.2 EXCOM must estimate the amount which will be required by the Association to meet its expenses during each financial year, together with such estimated deficiency, if any, as shall result from the preceding financial year and may include in such budget an amount to be held in reserve to meet anticipated future expenditure not of an annual nature.

10.3 Before the end of each financial year, EXCOM shall determine the annual levies due by the Members for the ensuing financial year by apportioning the budget to Members as annual levies equally in respect of every Erf in the Estate. EXCOM shall, by making a resolution to such effect, determine the annual levies due by the Members.

10.4 The annual levies so determined in terms of clause 10.3 shall become effective or due from the date of passing of the resolution by EXCOM. The annual levies shall be paid in equal monthly instalments over a period of twelve (12) months, monthly in advance, on or before the 1st (first) day of every succeeding month of the financial year, provided that if any Member defaults in the payment of any monthly instalment, the balance of the annual levy due by the Member in respect of the financial year shall become payable immediately. The first annuallevy shall be made for the balance of the financial year of the Association and

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

30/7/2025

DATE

shall become effective or due from the date of passing of the resolution by EXCOM.

10.5 The budget and the levies payable by the Members shall be tabled at the annual general meeting for the consideration of the Members. The Members may issue reasonable instructions to EXCOM relating to amendments required to the budget.

10.6 EXCOM may, from time to time, make special levies upon Members in respect of all expenses which have not been included in the budget. Special levies shall become due from the date of passing of the resolution by the EXCOM and shall be apportioned to Members equally in respect of every Erf in the Estate. Special levies shall be payable in one payment or in such instalments and at such time or times as EXCOM may think fit.

10.7 Upon the date of registration of transfer of an Erf the new Member shall become liable to the Association for the payment of the levies due in respect of the Erf. No Member shall be entitled to alienate his Erf until the Trustees have certified that the Member has, at the date of transfer, paid all amounts owing by him to the Association, or has made provision for such payment to the satisfaction of EXCOM.

10.8 Where any Erf is owned by more than one person, all the registered owners of that Erf shall be jointly and severally liable for the due performance of any obligation to the Association.

10.9 If a Member fails to pay his levies in full to the Association on due date, the Association may institute an action for the recovery thereof in any competent court.

10.10 Members shall be liable for the payment of interest on arrear levies and outstanding amounts due to the Association at the prime bank overdraft rate of interest charged by the Association's Bankers plus ONE PERCENT (1%). Interest calculated at the determined rate shall be recoverable from the date on which the amount is due and payable to the date of payment, both days inclusive.

10.11 A Member shall be liable for and shall pay all costs, including all legal costs on the scale as between attorney and own client together with collection commission, advocates' fees, administrative costs and all other expenses and

STELLENBOSCH MUNICIPALITY

THE OVAALS ASSOCIATION CONSTITUTION IS HEREBY APPROVED IN TERMS OF SECTION 60 OF THE STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-LAW (2015). 2023

MUNICIPAL MANAGER

30/7/2025

DATE

charges, incurred by the Association in obtaining recovery of arrear levies, penalties, damage or other amounts due to the Association, or in enforcing compliance with the provisions of the Constitution. Such costs and expenses may be added to the Member's levy account and recovered in the same manner as applies to arrear levies together with interest at the rate applicable to levies.

10.12 All moneys received from a Member towards his levy account shall be apportioned firstly towards interest, then towards legal- and other administrative costs and then towards levies or other service charges.

10.13 Where payment of any debt due by a Member is made by way of cheque or debit order, and such cheque is referred to drawer for any reason whatsoever, and/or if such debit order is unpaid for any reason whatsoever, the Trustees shall be entitled, in their sole discretion, to levy an administration charge in respect of each such occurrence in an amount to be determined by the Trustees from time to time.

11. ACCOUNTS

11.1 EXCOM shall cause proper books of account of administration and finance of the Association to be kept at the *domicilium* of the Association, or such other place or places as it may think fit, and shall produce an annual audited Balance Sheet.

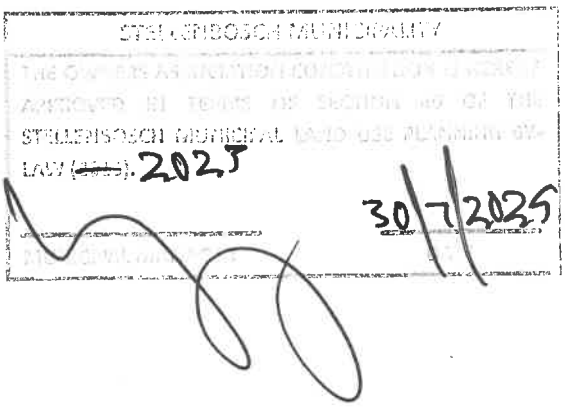
11.2 EXCOM shall cause to be laid before the Association in Annual General Meeting, the annual audited Balance Sheet.

12. DOMICILIUM

12.1 For all purposes arising out of this Agreement, including the giving of notices and the serving of legal process, the Association and each Member choose *domicilium citandi et executandi* as follows:

12.1.1 The Association: c/o HDK Developments
Unit 6 Time Square
Electron Ave, Techno Park
STELLENBOSCH

12.1.2 Each Member: Respective physical address according to the Deed of Sale


STELLENBOSCH MUNICIPALITY
STELLENBOSCH MUNICIPAL LAW (2025).
2025
30/7/2025

Provided that the Association or any Member may at any time by notice change his *domicilium citandi et executandi* to some other address, which new address shall be in the Republic of South Africa and shall not be a Post Office box or *post restante*, and provided further that such change shall become effective only FOURTEEN (14) days after receipt of the notice in question.

12.2 Any written notice which may be required to be given in terms of this Constitution may be delivered by hand or may be given by the dispatch of such notice in writing by pre-paid registered post, in which event such notice shall be deemed to have been received FIVE (5) days after the posting thereof from any Post Office within the Republic of South Africa, the exhibition of the certificate of registered item shall be full and complete proof of the date of dispatch of the said notice.

13. WINDING UP

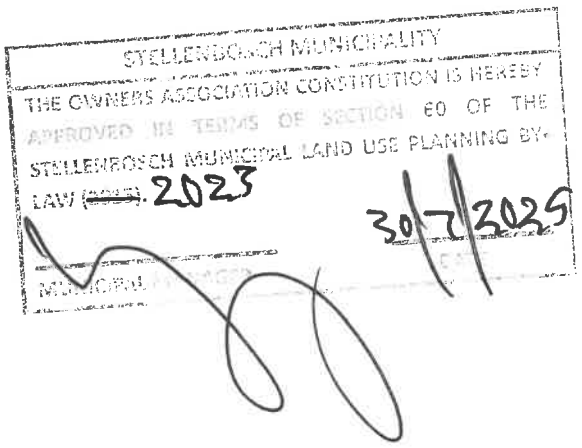
13.1 The Association may be wound up by a Resolution of the Members in General Meeting provided that:

13.1.1 at least NINETY PERCENT (90%) of Members present or represented at the meeting, duly convened, vote in favour thereof; and

13.1.2 the Local Authority consent thereto.

13.2 In the event of such winding up, it shall be the duty of EXCOM, or a Receiver to be appointed by it, to convert the Association's assets into cash, pay all the liabilities of the Association and thereafter distribute the rest to all the Members in accordance with the number of Properties registered in the name of each Member. If, within a period of TWELVE (12) months from such distribution, EXCOM or the Receiver is unable to find, locate or trace any Member, such Member's share shall then be paid to the Guardian's Fund.

13.3 Upon the winding up of the Association the Owners of Erven 84 to 89 bordering the Main Road 187, will be responsible to comply with the conditions specified in the letter from the Western Cape Government Department of Transport and Public Works, Road Network Management Chief Directorate dated 8 September 2014, Reference: 16/9/6/1-25/30 (Job 15817):


STELLENBOSCH MUNICIPALITY
THE OWNERS ASSOCIATION CONSTITUTION IS HEREBY
APPROVED IN TERMS OF SECTION 60 OF THE
STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-
LAW (2023).
2023
30/7/2025
MUNICIPAL MANAGER

13.3.1 To maintain, at their own cost, the respective Boundary Wall Types to a similar standard as the standard to which it was constructed;

13.3.2 To indemnify the Road Authority of Main Road 187 against any claim, should any of the Boundary Wall Types be damaged due to construction activities within the road reserve;

13.3.3 To indemnify the Road Authority of Main Road 187 against any claim, should any of the Boundary Wall Types be damaged due to any vehicular accident occurring within the road reserve.

Compliance with clause 13.3 shall be ensured by including a clause to that effect in the Title Deeds of each of erven 84-89.

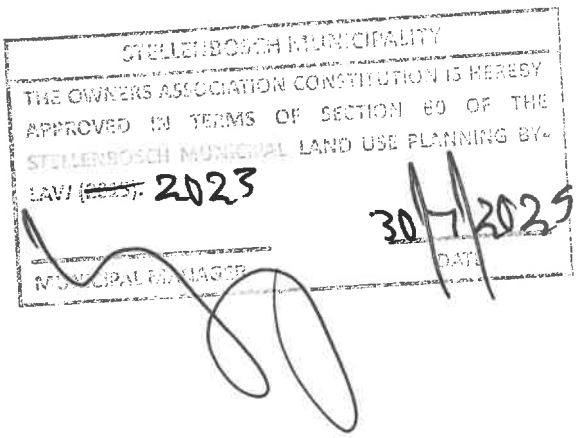
14. AMENDMENTS TO THE CONSTITUTION

14.1 The provisions of the Constitution may be added to, amended, substituted, or repealed from time to time by a Resolution passed at a general meeting of the Association by at least a TWO THIRD (2/3) majority of the votes, provided that an amendment affects Stellenbosch Municipality or a provision referred to in subsection 29(3) of the Stellenbosch Planning By-law, the amendment must also be approved by Stellenbosch Municipality. The notice of the meeting shall specify the proposed addition, amendment, or substitution or the provision to be repealed.

14.2 The Constitution and any amendment thereof must be lodged with Stellenbosch Municipality and the latest copy duly lodged with Stellenbosch Municipality, shall be presumed to contain the operative provisions of the Constitution, provided that if an amendment of the Constitution affects Stellenbosch Municipality or a provision referred to in section 29(3) of the Stellenbosch Planning By-law, the amendment must also be approved by Stellenbosch Municipality.

15. INTERPRETATION / DISPUTES

15.1 Any other dispute whatsoever between Members shall, subject to the provisions of Clause 15.4, be referred for decision to a practising Senior Advocate of the Cape Bar of not less than FIVE (5) years standing or, in the event of a dispute in the case of Clauses 7.6 to an Architect who shall then, acting as an expert and not as an Arbitrator, determine the outcome of the dispute and his decision


STELLENBOSCH MUNICIPALITY
THE OWNERS ASSOCIATION CONSTITUTION IS HEREBY
APPROVED IN TERMS OF SECTION 60 OF THE
STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-
LAW (2023). 2023
30/7/2025
MUNICIPAL MANAGER
DATE

shall be final and binding upon the parties and capable of being enforced in a Court of Law.

15.2 In the event of the parties being unable to agree upon the Senior Advocate who should be appointed to determine the dispute, then he shall be nominated by the President of the Cape Bar Council.

15.3 In the event of the parties being unable to agree upon the Architect who should be appointed, he shall be nominated by the President of the Cape Provincial Institute of Architects.

15.4 Notwithstanding anything to the contrary herein contained, EXCOM shall at its sole option be entitled to institute proceedings in the Court having jurisdiction for any relief to which it is entitled under the provisions of this Constitution, including subscriptions which are in arrears.

15.5 Notwithstanding the above sub-clauses, both parties in dispute will attempt resolving the dispute on a majority vote of the Members of the Association. If this majority vote is not achieved, this matter will be for arbitration.

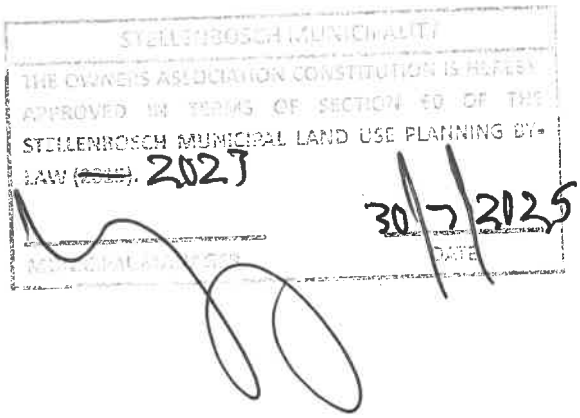
16. SUBMISSION OF PLANS

16.1 Members shall be obliged to submit all building and sewage plans for new construction, renovations, alterations or additions to EXCOM (who is bound by the applicable Development and Design Manual) (see Addendum) for examination and approval prior to the submission of such plan to the Local Authority for approval and the committee shall make known its decision to the applicant within TWO (2) weeks of the plan being submitted to it.

16.2 If any one Member is dissatisfied with the decision of the EXCOM, he shall have the right to call for a meeting of all Members and put his case to the vote. In this instance each Member shall have a number of votes equal to the number of Erven registered in his name.

17. USE AND OCCUPATION REQUIREMENTS

17.1 ONE (1) dwelling unit, with detached or semi-detached garage (single or double), may be erected per Erf, according to the official Local Authority approved subdivision plan.


STELLENBOSCH MUNICIPALITY
THE OWNERS ASSOCIATION CONSTITUTION IS HEREBY
APPROVED IN TERMS OF SECTION 60 OF THIS
STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-
LAW (2019). 2023
30/7/2025
DATE

17.2 The premises shall be used by the Members for residential purposes only and for no other purpose whatsoever, without at least the prior consent of at least two thirds (2/3) of the members of EXCOM.

17.3 All Members shall ensure that their respective activities on and uses of the KOELENBOSCH COUNTRY ESTATE shall be carried out with reasonable and diligent care and with due and proper consideration for the other Members. This shall likewise apply to Occupiers of Properties and Invitees of Members or Occupiers while they are on the Estate.

17.4 No Member shall cause or permit such conduct either on his own Erf or elsewhere on the estate as shall cause a nuisance or disturbance to other Members in the quiet enjoyment of their own premises or which is likely to or in any way may tend to affect detrimentally the benefit, enjoyment, rights of occupation and interest of any other Member. Such conduct will include, but will not be limited to the uses of radio, television and hi-fi sets, recording equipment and the like or the playing of musical instruments to the extent thatit will be audible beyond the boundaries of the premises of the Memberconcerned.

17.5 No caravans, tents, boats or structures of a temporary nature shall be allowed to be parked or erected in view of any dwelling on the Property, save with the approval of EXCOM and the adjoining neighbours.

17.6 No Member shall be entitled to dump materials or goods on the internal roads, or on any vacant Erf and shall be liable for payment of the cost of rectifying the damage or removal of the material or goods.

17.7 The Constitution and the Conduct Rules and the duties of a Member in relation to the use and enjoyment of his Erf and the Common Property and Services and amenities of the Estate shall be binding on all Members and Occupiers. It shall be the duty of a Member to ensure compliance with the Constitution and the Conduct Rules by his Invitees and the Occupiers of his Erf and by the Invitees of his Occupiers.

18. PETS

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

30/7/2025

DATE

18.1 A Maximum of 2 (Two) dogs, 2 (Two) cats and birds may be harboured per dwelling in the KOELENBOSCH COUNTRY ESTATE. Permission to harbour other animals may be obtained from EXCOM.

18.2 EXCOM has the power to evict any animal or pet which is considered by EXCOM to be a nuisance or disturbance to other Members.

19. FIRE HAZARD

Members may not commit or permit any act which would increase the hazard of fire. Members will not be permitted to make fires other than in their own private braai areas or indoor fire places.

20. GARDEN AREAS

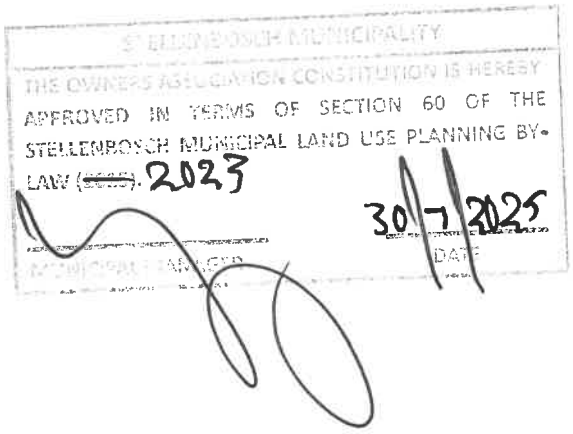
Every attempt should be made to ensure that gardens are of a suitable standard and should be well maintained by the owner. EXCOM will have the authority to evaluate and enforce this. Any cost incurred in this regard will be for the account of the specific owner.

21. CONSENT TO SALE

No Erf may be sold or alienated in any way nor shall any transfer thereof be registered without the prior written consent of EXCOM. The provision of this Clause is solely to ensure that there are no monies owed to the Association by any previous owner. This provision will always be contained in the Title Deed of the Erf.

22. INCORPORATION OF FUTURE PHASE

The Developer shall, in its absolute discretion, be entitled to include the Remainder of Portion 13 of the Farm Nooitgedacht no 74 into the KOELENBOSCH COUNTRY ESTATE and to apply for, and subject to, approval by the relevant authorities, amend the current Site Development Plan of the KOELENBOSCH COUNTRY ESTATE to allow for, including but not limited to, an increase in the number of Properties in the KOELENBOSCH COUNTRY ESTATE. Members shall be bound thereby and shall have no claim of whatever nature against the Developer arising therefrom. Insofar as the consent of a Member is required for any of the aforegoing, the Developer is irrevocably


STELLENBOSCH MUNICIPALITY
THIS OWNERS ASSOCIATION CONSTITUTION IS HEREBY
APPROVED IN TERMS OF SECTION 60 OF THE
STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-
LAW (2023).
30/7/2025
DATE

granted a power of attorney to grant any/all such consents on behalf of Members, as may be required.

23. MARKETING

For a period of 5 years calculated from the date of first transfer of a Property in the KOELENBOSCH COUNTRY ESTATE from the Developer to a Member, should a Member wish to sell its Property, HdK Properties registration number 2004/002004/07, shall be appointed from time to time on a sole-mandate basis for a period of 3 months for the marketing of the Property at a specified selling price by the Member each time a Member wishes to sell its property and agent's commission of 5% plus VAT thereon calculated on the selling price of the Property to a third-party buyer shall be payable by the Member to HdK Properties in terms this mandate.

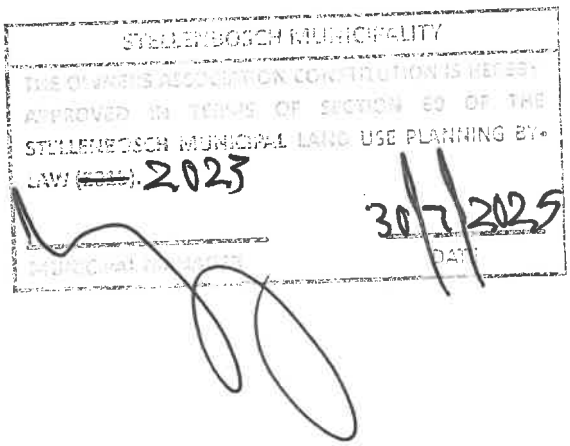
24. EXIT LEVY PAYABLE UPON ALIENATION TO THE ASSOCIATION

24.1 In the interpretation of this Clause 24, unless the context otherwise indicates:

24.1.1 'exit levy' means the contribution or levy which is payable by or on behalf of the Purchaser and its successors in title as owner of the Property to the Homeowners Association, upon the alienation of the Property.

24.1.2 'fair market value' in respect of the Property means the amount at which a willing seller would sell and a willing buyer would buy the Property and which amount shall be determined by the Association, and in determining the amount the Association shall accept the purchase price (if any) as the fair market value or rely upon the valuation/s of a third party or parties irrespective of whether such party/ies is/are a sworn appraiser/s or not: Provided that if the owner or transferor objects to the amount determined by the Association, the Association shall appoint a sworn appraiser to determine the fair market value of the Property, and his determination will be binding upon the owner or transferor and the Association.

24.1.3 'alienation' means to divest of ownership or the bare dominium of any Property or a part thereof, or share therein by way of sale, exchange, donation, deed, intestate- or testate succession, cession, assignment, court order, insolvency or liquidation, prescription, or expropriation, and irrespective of whether the Alienation is subject to a suspensive


STELLENBOSCH MUNICIPALITY
STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-
LAW (~~2014~~) 2023
30/7/2025
DATE

or resolutive condition, and 'alienate' or 'alienating' shall have a corresponding meaning, provided that it shall be deemed to be an alienation when there is a change in the shareholding, or the Members or the trust beneficiaries, as the case may be, in respect of a company, close corporation or s trust, as the case may be, that is the owner of the Property.

24.2 When alienating the Property, the Purchaser and his successors in title shall be liable to pay an exit levy to the Homeowners' Association, calculated at 1% (one percent) of the fair market value of the Property at the time of alienation. The exit levy shall be paid on or before the date of registration of the transfer, and the Homeowners' Association shall not furnish the consent to transfer necessary for lodgement in the Deeds Office before the exit levy has been paid, or before provision has been made for the payment thereof, to the satisfaction of the Homeowners' Association.

24.3 The provisions of Clause 24.2 shall apply *mutatis mutandis* in respect of the alienation of the *bare dominium* of a Property, or a part thereof, or a share therein, and the registration or cancellation of a long term lease or a personal servitude of *usufruct, usus* or *habitatio* in respect of the Property.

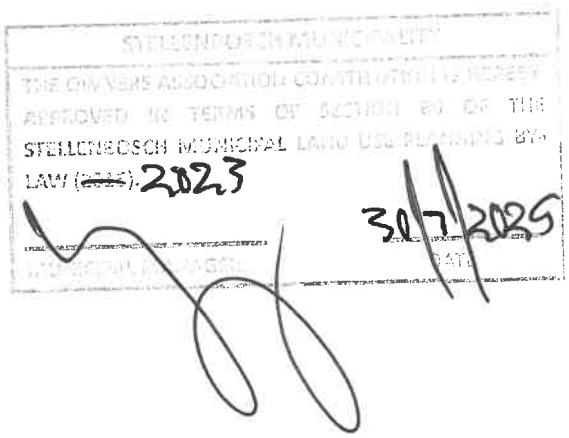
25. BOUNDARY WALL TYPES

25.1 The Boundary Wall Types along Main Road 187 was approved by the Western Cape Government Department of Transport and Public Works, Road Network Management Chief Directorate in terms of section 9/9A of Act 21 of 1940 and Section 17 of the Roads Ordinance 19 of 1976, subject to the Association agreeing to specific conditions as specified in their letter dated 8 September 2014, Reference: 16/9/6/1-25/30 (Job 15817).

25.2 The Association hereby agrees and undertakes:

25.2.1 To maintain, at its own cost, the respective Boundary Wall Types to a similar standard as the standard to which it was constructed;

25.2.2 To indemnify the Road Authority of Main Road 187 against any claim, should any of the Boundary Wall Types be damaged due to construction activities within the road reserve;


STELLENBOSCH MUNICIPALITY
THE OWNERS ASSOCIATION CONSTITUTION HEREBY
APPROVED IN TERMS OF SECTION 60 OF THE
STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-
LAW (2015). 2023
30/7/2025
DATE

25.2.3 To indemnify the Road Authority of Main Road 187 against any claim, should any of the Boundary Wall Types be damaged due to any vehicular accident occurring within the road reserve.

26. COMMON PROPERTY AND SERVICES

26.1 The Developer shall transfer the parts of the Common Property which are registrable to the Association.

26.2 The Association shall repair and maintain the Common Property in a state of good and serviceable repair. Excom shall also control access to and use of the Common Property, the amenities and services of the Association.

26.3 The Association shall be responsible for the control over and maintenance of the services in respect of the Estate for the provision of water, sewerage, electricity, refuse removal, roads, storm-water drainage, and the infrastructure, systems and processes related to the service. The Association will be responsible for the operation and maintenance of the total street light network including all street furniture, street light control kiosk and underground streetlight cables and other internal services in respect of the Estate, subject to the conditions imposed by Stellenbosch Municipality. The Association shall implement an annual program to regulate the cleaning of the stormwater system in the KOELENBOSCH COUNTRY ESTATE.

26.4 EXCOM may, subject to the directions given or restrictions imposed by the Members passed at a general meeting of the Association:

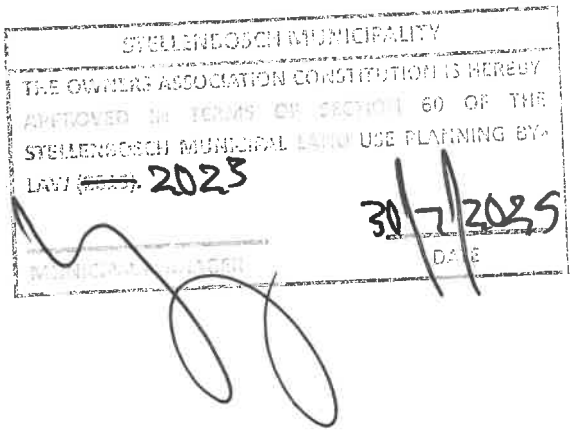
26.4.1 let parts of the Common Property on terms shorter than ten (10) years;

26.4.2 construct improvements on the Common Property or remove improvements;

26.4.3 repair, maintain, upgrade and provide services in respect of the Common Property;

26.4.4 enter into agreements with service providers and/or other persons in respect of the Common Property.

26.5 Except as stipulated in clause 26.4 above, neither the whole nor any portion of the Common Property shall be sold, let on a long term lease for a period of ten


STELLENBOSCH MUNICIPALITY
THE OWNERS ASSOCIATION CONSTITUTION IS HEREBY
APPROVED IN TERMS OF SECTION 60 OF THE
STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-
LAW (2023).
2023
30/7/2025
DATE

(10) years or longer, alienated or otherwise disposed of, subdivided, mortgaged, or subjected to any servitudes or other rights to be registered in the Deeds Registry, save as specified in the conditions of approval, without the sanction of a resolution passed at a general meeting by at least ninety percent (90%) of the votes.

26.6 Members and Occupiers shall comply with the provisions of the Conduct Rules relating to the use of the Common Property and the amenities and services of the Association.

27. CONDUCT RULES

27.1 Excom may formulate and issue and amend the Conduct Rules from time to time, subject to the directions given or restrictions imposed by the Members on EXCOM at a general meeting of the Association.

27.2 The Conduct Rules may include provisions governing:

27.2.1 The use and enjoyment of Properties, and restrictions on the use and enjoyment thereof;

27.2.2 The use and enjoyment of the Common Property and facilities and restrictions on the use and enjoyment thereof;

27.2.3 The conduct of any person and the prevention of nuisance of any nature to other Members and Occupiers;

27.2.4 The appearance of improvements and landscaping;

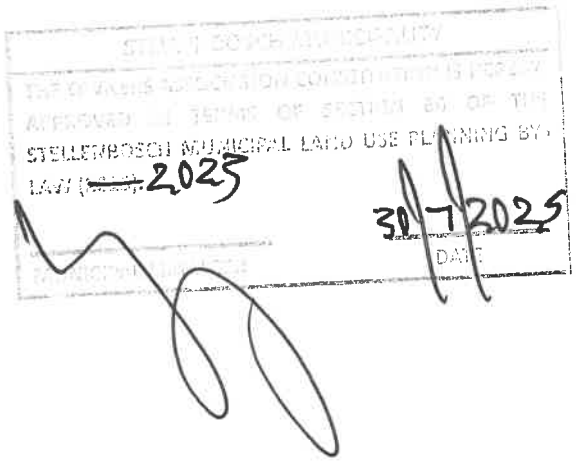
27.2.5 The sale and letting of Properties;

27.2.6 The security measures applicable to the Estate;

27.2.7 The introduction of traffic calming measures;

27.2.8 The storage of flammable and other harmful substances;

27.2.9 Refuse disposal, recycling and prohibition of littering;


STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-
LAW (
2025
30/7/2025
DATE

and generally any other provisions in furtherance and promotion of the objects of the Association or which would be to the benefit of the Association and the Members.

28. WASTE MINIMIZATION

28.1 Members and Occupiers must as far as may be possible reduce the waste produced by their households, and must re-use resources wherever possible and must recycle appropriately.

28.2 The following waste minimization measures shall be implemented by the Developer and must be adhered to by EXCOM and the Members and Occupiers:

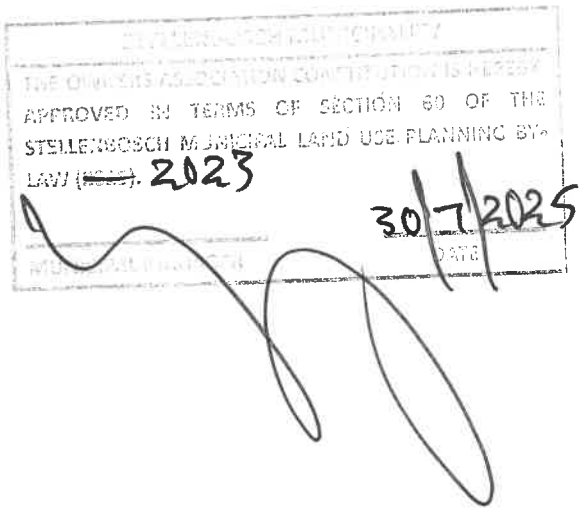
28.2.1 The Developer shall provide suitable containers for different types of recyclable materials, including cardboard, glass, metal and plastic and green waste (biodegradable waste that can be composed of garden or park waste, such as grass or flower cuttings and hedge trimmings, as well as domestic food waste).

28.2.2 Members and Occupiers must deposit all their recyclable materials in the specific containers provided for this purpose in the Estate.

28.2.3 EXCOM must appoint a service provider to collect the recyclable waste. Such service provider must be legally compliant in terms of all Environmental Legislation and /or approved by Stellenbosch Municipality's Solid Waste Management Department.

28.2.4 The costs of recycling will be included in the subscription payable by the Members.

28.2.5 Waste or materials that cannot be reused or recycled shall be collected from the Estate weekly by the refuse removal services contracted from time to time by EXCOM. Members and Occupiers must deposit such waste and materials into refuse containers to be kept on their respective Properties, which refuse containers must be placed on the sidewalks in front of their Properties on the days specified by EXCOM in the Conduct Rules for collection.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STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-
LAW (~~NO. ...~~). 2023
30/7/2025
DATE

28.2.6 Where, in the opinion of EXCOM, any item of refuse is of such size or nature that it cannot be conveniently removed by the refuse removal services contracted by EXCOM, EXCOM may give the person wishing to dispose of such refuse such directions for its disposal as they may deem fit.

28.2.7 Refuse removal, recycling and waste management must be co-ordinated by EXCOM from time to time.

28.2.8 EXCOM must keep record of any steps taken to address reports of dumping or poor waste management within the Estate.

28.2.9 General visual monitoring must be undertaken by EXCOM to ensure that the aforegoing measures are adhered to by Members and Occupiers. In this regard an audit may be undertaken of individual's household refuse.

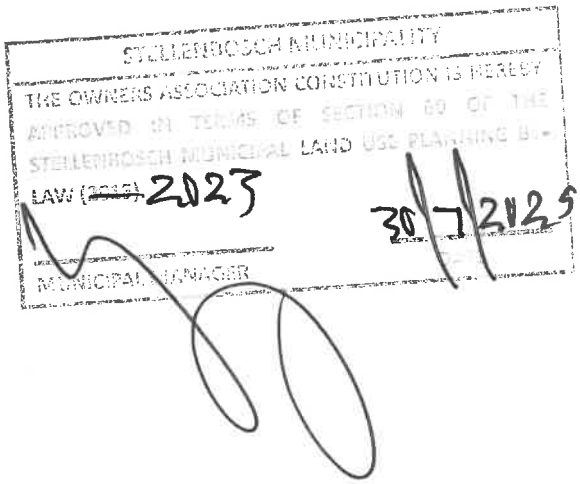
28.3 It shall be the duty of every Member or Occupier to ensure that aforegoing provisions and the provisions of the Conduct Rules regarding refuse disposal and recycling are observed and adhered to.

28.4 In the event of any person contravening or failing to comply with aforegoing provisions or the provisions of the Conduct Rules regarding refuse disposal and recycling, EXCOM may impose a penalty on the Member.

28.5 Members and Occupiers could avoid making waste by using cleaner technology; buying goods that are not over packaged; buying in bulk to reduce packaging; by buying long-lasting high-quality products rather than short-lived products; by reducing the number of disposable items they buy, such as pens, plates, cloths, razors, batteries and cans; by reducing spoilage by sorting foods in sealable containers; by re-using carry bags when shopping; by using both sides of the page when printing and photocopying; by donating unwanted appliances; by re-using discarded items; by composting plant wastes.

29. IMPOSITION OF PENALTIES

29.1 If the conduct of a Member or Occupier or the Invitees of a Member or of a Occupier constitute/s a nuisance in the opinion of EXCOM or a contravention of a provision of the Constitution, the Design Manual or the Conduct Rules, the Trustees shall by written notice inform the Member of the nuisance or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APPROVED IN TERMS OF SECTION 69 OF THE
STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-
LAW (2015) 2023
30/7/2025
MUNICIPAL MANAGER

contravention and warn the Member that if he, or the Occupier of his Erf or the Invitees of the Member or Occupier fails to remedy the contravention, or persist in, or repeats such conduct or contravention, a penalty will be imposed on the Member.

26.2 If, notwithstanding the written notice in terms of clause 29.1 above, the Memberor Occupier fails to remedy the contravention or persist in or repeats such conduct or contravention, EXCOM or their nominee may, by written notice impose a penalty on the Member.

29.3 The penalty imposed under clause 49.2 above, shall become due on the date of the written notice and must be paid within thirty (30) days of the date of the written notice. Should the penalty remain unpaid, it shall be added to the Member's levy statement and shall be recovered from the Member in the same manner as applies to arrear levies, together with interest at the rate applicable to arrear levies.

29.4 EXCOM shall, from time to time, determine the amounts of penalties in respect of the various contraventions and in respect of first and successive contraventions, subject to the directions given or restrictions imposed by the Members at general meetings of the Association.

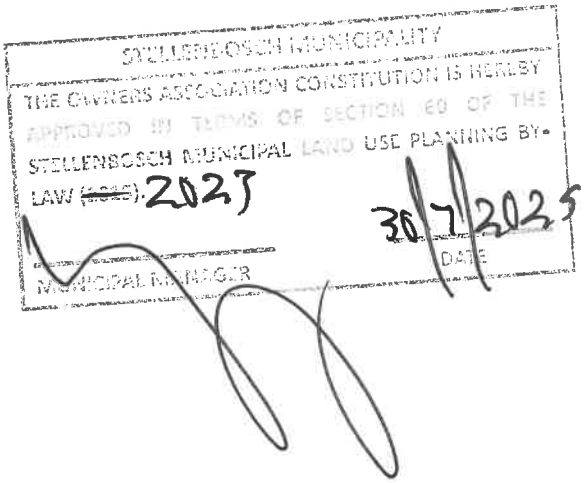
29.5 A penalty may be imposed in respect of each separate contravention. In the event of a continuing contravention, the Member shall be deemed to be guilty of a separate contravention for every 24 hours or part thereof during which such contravention continues and shall be liable for a penalty in respect of each such separate contravention.

29.6 A Member may within thirty (30) days of the date of the written notice in terms of clause 29.2 submit an objection with a motivation against the penalty imposed to EXCOM.

29.7 Upon receipt of the objection, EXCOM may:

29.7.1 withdraw or reduce the penalty; or

29.7.2 schedule a meeting of EXCOM for the purpose of considering the objection and invite the Member to attend.


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
30/7/2025
MUNICIPAL MANAGER
DATE

29.8 At the said meeting of EXCOM referred to in clause 29.7.2 above, the Member shall have the right to:

29.8.1 present his case;

29.8.2 present any evidence, including the calling of witnesses to substantiate his case;

29.8.3 cross-examine any person called as a witness in support of the charge;

29.8.4 have access to documents produced in evidence; and

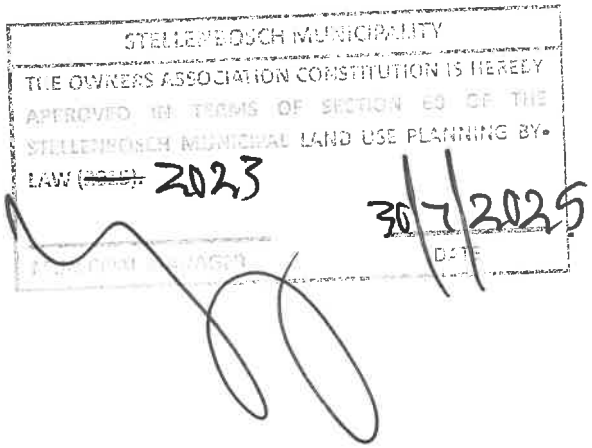
29.8.5 produce mitigating factors.

29.9 The failure of the Member charged to attend the meeting of EXCOM referred to in clause 29.7.2 shall not render the proceedings at the meeting void. Should the Member or his representative not attend the meeting of EXCOM without providing a reasonable request for postponement, EXCOM may in their sole discretion continue with the meeting of EXCOM and consider the objection in the absence of the Member.

29.10 Upon the conclusion of the meeting of EXCOM, EXCOM shall deliberate the evidence, and if so resolved, they may:

29.10.1 uphold the penalty; or

29.10.2 withdraw or reduce the penalty.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STELLENBOSCH MUNICIPAL LAND USE PLANNING BY-
LAW (2023)
30/7/2025
DATE