



CONDUCT RULES

ROSEDALE ESTATE HOME OWNERS' ASSOCIATION

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1. INTRODUCTION

The primary objective of the Rosedale Estate Home Owners' Association (hereafter referred to as 'the HOA') is to promote, enhance and protect the communal interests of its Members. This is achieved through the management of the development of dwellings and related facilities (roads, parks, gardens, outbuildings, guardhouses, entrances, retention dams, lights etc.) with an appropriate set of rules, including rules and guidelines contained in the Rosedale Estate Architectural Guidelines.

1.1. These Rules have been formulated and imposed by the Trustee committee in terms of Clause 17 of the Rosedale Estate Constitution, therein referred to 'Rules and Regulations' and are, together with the provisions of the Constitution and the Architectural Guidelines, binding upon all the Owners and Residents of Unit Erven and their successors in title.

1.1.1. It is the responsibility of the Members to familiarize themselves with the stipulations of the Constitution, these Rules and Architectural Guidelines to ensure that they, their families, lessees, visitors, friends, contractors and employees comply therewith. Each Member takes sole responsibility for any breach committed by any of the above categories of persons.

1.1.2. Should any Owner let his property, he/she shall notify the HOA in writing to the managing agents, in advance of occupation, providing the name and contact details of the tenant and the period of such lease.

1.1.3. General consideration by all Residents for the Rules and each other will greatly assist in assuring peaceful coexistence in the Development.

1.1.4. Words importing the singular shall include the plural and words importing a gender shall include the other genders. Reference to a person shall include legal persons and trusts.

1.1.5. Words and expressions used herein have the same meanings as may be assigned to them in the Constitution, subject to the following words and expressions being assigned the following meanings in these Rules:

"Constitution"	means the constitution of the Association as filed at and approved by the Municipality of Cape Town;
"Dwelling"	means a residential house or apartment built on any Erf within the Development, including any outbuildings;
"Unit Erf/Erven"	means the private stands, or erven or Apartments within the Development, owned by Members, whether it has been improved or not;
"Common Areas"	means all parts of the Estate excluding privately owned Unit Erven, Unit Apartments and the common property of the sectional title schemes, and Rosedale Manor;

“Owner”	means a homeowner, being the registered Owner of a Unit Erf in the Development herein used synonymously with ‘Member’;
“Resident”	means any person residing in a Dwelling, where appropriate including an Owner and tenant;
“Development”	means the housing scheme known as Rosedale Estate including everything within its boundaries.
“Visitor”	means any person or contractor visiting a Resident.

2. MEMBERSHIP AND DUTIES OF MEMBERS

- 2.1. Membership of the HOA is compulsory and automatic for all registered Owner/s, commencing upon registration of a Unit Erf in his, her or its name; and as such an Owner cannot resign as a Member of the HOA.
- 2.2. Membership ceases upon registration of transfer of a Unit Erf to another, who in turn then assumes membership of the Association.
- 2.3. Every Member shall be jointly liable with all the Members for all expenditure incurred by the HOA to third parties.
- 2.4. Each Member shall, to the best of his/her ability promote the interests and aims of the HOA and strictly comply, and ensure compliance with the provisions of the Constitution, these Rules and the Architectural guidelines of the Rosedale Estate HOA.
- 2.5. No owner or resident may give instructions to, or interfere with the duties of, employees and service providers of the HOA. Any suggestions or complaints must be referred to the Trustee Committee in writing.

3. LEVIES AND ADMINISTRATION

- 3.1. Payment of levies is compulsory for all Members, payable in advance (first day of every month) by Stop-order, electronic transfer or direct deposit stating their assigned reference number as per the management agent’s invoice.
- 3.2. Interest is payable on all arrear accounts at a rate as determined by the Trustee Committee from time to time, which shall not be less than the prime rate of interest applied by the HOA’s bankers, calculated from the due date until date of payment.
- 3.3. Such interest will be imposed on Owners with accounts in arrears for 30 (THIRTY) days or longer. The HOA shall be entitled to recover all legal costs incurred in respect of recovery of arrear levies, interest and any other amounts due, on an attorney and own client scale.
- 3.4. As per clause 8.9 of the Constitution of the HOA makes provision that no Member shall be entitled to any of the privileges of membership unless and until they have paid all levies and any other sum (if any) which is due and payable to the Association.

4. DOMESTIC ANIMALS

- 4.1. Although domestic animals/pets are permitted, the Owner or Resident is required to register each pet with the managing agent so an appropriate record can be maintained. Municipal by-laws pertaining to number of pets allowed per ERF size shall be adhered to by all residents within Rosedale Estate.
- 4.2. No animal is allowed to roam freely within the Development. When walking with your pet they must be leashed or appropriately harnessed and controlled at all times.
- 4.3. It is the responsibility of the pet owner to clean up any animal waste immediately when it occurs in the Common Areas.
- 4.4. Animals causing a nuisance will not be tolerated, this includes but is not limited to disturbances from barking dogs and cats ripping refuse bags or entering other residents' homes. Municipal by-laws apply and all residents reserve the right to involve the relevant local authorities to enforce the applicable by-laws.

5. USE OF ERVEN / DWELLINGS, OPEN AREA

- 5.1. Rosedale Estate is a residential estate and thus no business activity may be conducted on or in any Unit Erf.
- 5.2. No sign boards to promote private businesses, including resident estate agents, are allowed.
- 5.3. No hobby or activity which, in the opinion of the Trustee Committee, constitutes an aggravation or nuisance to other Residents may be conducted within a Unit Erf.
- 5.4. An Owner or Resident may not contravene or permit the contravention of any law, by-law, ordinance, proclamation or statutory regulation or the conditions of title of any Unit Erf or terms of any licence relating to the occupation of a building.
- 5.5. An Owner or Resident may not use the Common Areas in such a manner so as to cause a nuisance to other Residents.

6. ARCHITECTURAL GUIDELINES

- 6.1. Notwithstanding the amendment to the City of Cape Town's Zoning Regulations effective from 1 March 2013, the Association will in terms of these Rules and the Architectural Guidelines, require that an Owner or tenant shall not make any alterations to his unit or the Common Areas, which affects the outward appearance of the building in any way whatsoever, without the prior written approval from the Trustee Committee. This includes any erection of blinds, awnings and balcony or patio enclosures. In addition, an Owner or tenant shall not make alterations to his Unit Erf or the Common Areas, which are likely to impair the stability of the building or the amenity of the other Unit Erven or the Common Areas. The Trustee Committee is empowered to impose such conditions as deemed necessary in regard to type and colour of any blind, awning or balcony/patio enclosure being erected. Curtains must show a cream or white colour externally. Rosedale was created in a Tuscan style and any plans must take this into account.
- 6.2. The Architectural Guidelines may be more stringent than the City of Cape Town rules and regulations for purposes of consistency and uniformity within the Development.

- 6.3. Notwithstanding the fact that the building plans must comply with all regulations, the approval or rejection of such plans shall be at the sole discretion of the Trustee Committee. Owners shall liaise with the Trustee Committee should there be any doubt about the guidelines prior to finalizing their building plans.
- 6.4. The Trustee Committee will not approve any building plans before it has been recommended for approval by the managing agent and/or other professional appointed by the Trustee Committee. A fee (to be determined from time to time) per building plan is payable by the Member to the HOA.
- 6.5. A colour chart must accompany the plans for plaster and painted houses.
- 6.6. Once building commences, all contractor activity must comply with the 'contractors' code of conduct' as stipulated in the Architectural Guidelines.

7. SECURITY AND ACCESS CONTROL

- 7.1. The Access Control procedures is a subset of these Rules but documented separately. All Residents must ensure that they familiarize themselves and comply with the Access Control procedures. Any deviation or non-compliance with the Access Control procedures by any Members, or their Visitors, will be seen as and treated as a breach. Any such deviations from the Access Control procedures will accordingly be deemed to be grounds for imposing penalties in terms of the provisions in Clause 12 hereof.
- 7.2. All home Owners are to ensure that when selecting an estate agent for selling or letting their property, that such an agent is registered with the HOA. This is to ensure that the agent knows all the rules and by-laws and the processes required when selling/letting a property within the Development. Estate agents must register with the managing agent and will receive an Access Card as part of the registration process.
- 7.3. Owners will be held liable for any damage to any of the Access Control equipment caused by negligence on the part of the Owner, his family, or any occupant of his property or any Visitor visiting his property.
- 7.4. Upon commencement or termination of a lease or period of residence in the Development, the movement of household goods may only take place between 07h00 and 20h00.

8. ENSURING A PLEASANT STREETScape

- 8.1. Every Owner must maintain his Unit Erf including land and buildings, in an attractive and well-maintained condition. No houses or other buildings, pools, or gardens on Unit Erven may be neglected, including in respect of paintwork, wood varnish, roofs, sanitary conditions, etc. The sanitary condition or visual appearance of a property shall not have a negative impact on neighbouring properties.
- 8.2. Every Owner is responsible for maintaining the area between the street curb and the boundary of his/her Unit Erf in a clean and pleasing condition. The Trustee Committee may require the Owner or tenant in writing to improve the aesthetic appearance of this area when deemed necessary, and upon non-compliance, the Trustee Committee may have this done at the cost of the Owner.

- 8.3. Garden fences and/or walls and outbuildings forming part of the streetscape shall be regularly maintained and painted where necessary.
- 8.4. Building material or rubble/refuse of any nature may under no circumstances be discarded on the Common Areas, including the parks, streets, sidewalks, dams or vacant stands. Building material or rubble/refuse may not be stored on private property where visible to other Residents. The Trustee Committee may, upon the Owner or tenant's failure to remove same after receiving written notice to do so, cause to have same removed at the cost of the Owner.
- 8.5. The City of Cape Town removes refuse on Tuesday (refuse other than recyclable materials) and Wednesday (recyclable materials). Accordingly, refuse bins may not be put in the street before Monday and Tuesday evening respectively and must be removed from the street by Tuesday and Wednesday's respectively. Refuse bins must be stored within the boundaries of the Unit Erven and not left on the sidewalk or in the street.
- 8.6. Planting must not interfere with pedestrian traffic or obscure the vision of motorists.

9. MOTOR VEHICLES AND PARKING

- 9.1. No unroadworthy vehicles may be driven within the boundaries of the Development.
- 9.2. No abandoned, derelict or under-repair vehicles may be parked in streets, on sidewalks, Common Areas or in front of any street-facing wall of any house/building for more than 7 (seven) consecutive days.
- 9.3. No trailers, trucks, caravans and/or boats may be parked in streets, on sidewalks, or on any portion of the Common Areas or parked in front of any street facing wall of any house/building for more than 7 (seven) consecutive days.
- 9.4. All vehicles driven on the internal roads must comply with the road signs and speed limits displayed. Owners and tenants must ensure that visitors or guests honour these Rules accordingly.
- 9.5. Vehicles and motorcycles may only be parked on such areas of the Common Areas as are indicated, specifically on the parking bay allocation plan or approved by the Trustee Committee for that purpose.

10. DISTRIBUTION AND DISPLAYING OF ADVERTS, SIGNS AND MARKETING GOODS

- 10.1. No signs, advertising, sales of any product or service will be allowed without the prior written consent of the Trustee Committee. Marketing of property must comply with the guidelines laid down in the Estate Agent Rules of which all registered Estate Agents will have a copy. Should Member/s market their property privately, such Members must comply with the same rules. A copy of the Estate Agent Rules can be obtained from the management agent.
- 10.2. Door-to-door distribution of leaflets, brochures and any marketing material is not allowed in the Development without written consent of the Trustee Committee. Distribution of such material can be arranged with the local Post Office.
- 10.3. Distribution of flyers or any material by any person at the entrances to the Development is strictly prohibited.

- 10.4. No pamphlets, flyers, advertisements or lost/found notices may be displayed on the booms or guardhouse windows. Lost/found notices can be distributed electronically by the management agent, after approval has been obtained from the Trustee Committee.

11. SHORT TERM RENTALS

No short term rentals are permitted, for example AIRBNB or other such rental schemes. The minimum rental periods shall not be less than 6 months.

12. PROCEDURES ON BREACH

Should a contradiction arise between the provisions of these Rules and the provisions of the Constitution, the Constitution will take precedence and Trustee Committee will be obliged to amend these Rules in order to bring them into agreement with the Constitution.

- 12.1. Any transgression of the rules and guidelines stipulated by the Constitution, ('Rules and Regulations' as per Clauses 9 and 17 of the Constitution), will be treated as a breach and dealt with as determined in Clause 12 of the Constitution. In addition, the Trustee Committee may impose penalties (fines) upon Members in appropriate circumstances, in terms of the provisions in rule 13 hereunder.
- 12.2. A Member will be notified in writing of such breach. After a 7 (seven) day period the Trustee Committee may institute proceedings in terms rule 13 below or the matter may be handed to an attorney to institute legal proceedings on behalf of the Association against such Member. All legal costs incurred by the Association will be recoverable from such Member on an attorney-and-own client scale.
- 12.3. All complaints regarding breaches must be submitted to the Trustee Committee in writing, signed by the complainant, who must be an Owner or Resident. Where applicable the Owner must submit the necessary evidence to support the complaint.

13. IMPOSITION OF PENALTIES

- 13.1. If the conduct of an Owner, tenant or occupier of a dwelling or the family members, guests, visitors, employees, contractors, clients or customers of the Owner, the tenant or occupier, constitute/s a contravention or breach of a provision of these Rules, the Trustee Committee may:
- 13.1.1. by written notice inform the Owner of the contravention and warn the Owner that if he, or the tenant or occupier fail/s to remedy the contravention and/or if he or they persist/s in such conduct or contravention, a penalty will be imposed on the Owner; and
- 13.1.2. by written notice impose a penalty on the Owner, which notice shall state the reasons for the imposition of the penalty, if the Owner, the tenant or the occupier fails to remedy the contravention or persist in the conduct or contravention, or if such conduct or contravention is repeated, notwithstanding 7 (seven) days' written notice given by the Trustee Committee in terms of sub-rule 13.1.1; or
- 13.1.3. summarily and without warning, by written notice impose a penalty on the Owner, which notice shall state the reasons for the imposition of the penalty.

- 13.2. The penalty imposed under sub-rule 13.1.2 or 13.1.3 above, shall become due on the date of the written notice and must be paid within 30 (thirty) days from the date of the written notice. Should the penalty remain unpaid it shall be added to the Owner's levy statement and shall be recovered from the Owner in the same manner as applies to arrear levies, together with interest at the rate applicable to arrear levies.
- 13.3. The Trustee Committee shall from time to time determine the categories of contraventions and the amounts of the penalties in respect of the various contraventions and in respect of first and successive contraventions, subject to any directives issued or restrictions imposed by the Members to or on the Trustee Committee at a general meeting.
- 13.4. Any penalty imposed must be reasonable in the prevailing circumstances.
- 13.5. A penalty may be imposed in respect of each separate contravention. In the event of a continuing contravention, the Owner shall be deemed to be guilty of a separate contravention for every 24 hours or part thereof during which such contravention continues and may be held liable for a penalty in respect of each such separate contravention. Depending on the nature of the contravention, the interval and number of penalties will be determined at the discretion of the Trustee Committee.
- 13.6. An Owner may within 30 (thirty) days of the date of the written notice in terms of sub-rule 13.1.2 or 13.1.3, submit an objection, with a motivation, against the penalty imposed, to the Trustee Committee .
- 13.7. Upon receipt of the objection, the Trustee Committee may:
- 13.7.1. withdraw or reduce the penalty; or
 - 13.7.2. schedule a Trustee Committee meeting (hearing) for the purpose of considering the objection and invite the Owner to attend, or to be represented.
- 13.8. At the Trustee Committee meeting (hearing) referred to in sub-rule 13.7.2 above, the Owner or his representative shall have the right to:
- 13.8.1. present his case;
 - 13.8.2. present any evidence, including the calling of witnesses, to substantiate his case;
 - 13.8.3. cross-examine any person called as witness in support of the charge;
 - 13.8.4. have access to documents produced in evidence; and
 - 13.8.5. produce mitigating factors.
- 13.9. The failure of the Owner charged or his representative to attend the Trustee Committee' meeting referred to in sub-rule 13.7.2 shall not render the proceedings at the meeting void. Should the Owner or his representative not attend the Trustee Committee meeting without providing a reasonable request for postponement, the Trustee Committee may, in their sole discretion, continue with the Trustee Committee meeting and consider the objection in the absence of the Owner.

13.10. Upon the conclusion of the Trustee Committee meeting, the Trustee Committee shall deliberate the evidence and if so resolved, they may:

13.10.1. uphold the penalty; or

13.10.2. withdraw or reduce the penalty.

14. ASSOCIATION / MUNICIPAL AUTHORITY

The HOA and its Members and Residents are obliged to comply with South African law as well as municipal by-laws. The Association can and have laid down rules to enforce or place further restrictions regarding such provisions. Some of the provisions are deemed too complex to police and enforce by the Association. Examples of these are violence, domestic disputes, drug related, etc.

Any transgressors/complaints regarding any contravention not covered by the Rules of the Association, should be reported to the Municipal Law Enforcement office (Tel 021 444 9973) or the SAPS (Tel 021 970-3800 or 10111 for emergencies) and not to the managing agent or security contractor.

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