

WHALE ROCK HEIGHTS HOMEOWNERS' ASSOCIATION

CONDUCT RULES

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CONDUCT RULES

WHALE ROCK HEIGHTS HOMEOWNERS' ASSOCIATION REGISTERED AS THE "PLETTENBERG HEIGHTS" HOMEOWNERS' ASSOCIATION

1. INTRODUCTION

- 1.1 The main objective of the development of Whale Rock Heights is to provide a high quality lifestyle for residents, and the purpose of these Rules is to protect this lifestyle.
- 1.2 The Conduct Rules have been established in terms of the Constitution of the Whale Rock Heights Homeowners Association created under section 29 of the Land Use Ordinance, 15/1985. They are binding on all occupants of the estate, as is any decision taken by the Trustees in the interpretation of these Rules.
- 1.3 The registered Members of the Association are responsible for ensuring members of their families, tenants, visitors and their employees abide by these Rules.
- 1.4 Harmonious community living is achieved when residents use and enjoy their private property as well as the common areas and amenities of the Estate, whilst being generally considerate to all occupants of the Estate.
- 1.5 The Whale Rock Heights Homeowners' Association reserves the right to control access to the Estate.
- 1.6 The Managing Agent as the appointed representative of the Trustees has the authority of the Trustees in applying these Rules, except as specifically noted to the contrary.
- 1.7 Important telephone numbers and addresses:
 - Managing Agent: Plett Property Management: Tel 044 533 2700, 7 Gibb Street, Plettenberg Bay, e-mail ppm@wol.co.za
 - Estate Manager: Alan Reekie - 082 903 1154; Email hazelreekie@telkomsa.net
 - Security Service Provider: Plett Security - 044 533 6740
 - Security Centre at the gatehouse: 044 533 1845
 - Crime Prevention Association. (PBCPA): 082 251 8134
 - Police: 044 501 1900 /1907 /1908

- Fire/Rescue Emergencies: 044 533 5000
- Sea Rescue: 055 533 2744 / 082 990 5975
- Plettenberg Bay Municipality, Sewell Street, Plettenberg Bay:
Tel. 044 501 3000

2. INTERPRETATION

- 2.1 In these Rules unless inconsistent with or otherwise indicated by the context:-
- 2.1.1 “**Association**” means the Whale Rock Heights Homeowners’ Association established in accordance with section 29 of the Cape Land Use Ordinance, 1985 (Ordinance No. 15 of 1985), as amended from time to time.
- 2.1.2 “**Constitution**” means the Constitution of the Whale Rock Heights Homeowners’ Association.
- 2.1.3 “**Estate**” means the Township Area as defined in the Constitution.
- 2.1.4 “**Open Space**” means the private open space areas in the Estate that does not form part of the erf of any member.
- 2.1.5 “**Member**” means a Member of the Association.
- 2.1.6 “**Tenant**” means a person or persons occupying a property in the Estate as a lessee or in terms of any use agreement of whatsoever nature with a Member.
- 2.1.7 “**Rules**” means the Rules as contained in this document.
- 2.1.8 “**Trustees**” means the Trustees of the Association.
- 2.1.9 “**Visitor**” means the invitee of a Member or Tenant.
- 2.2 Words and phrases in these Rules will bear the corresponding meaning to that ascribed thereto in the Constitution.
- 2.3 The clause headings in these Rules have been inserted for convenience only and shall not be taken into account in its interpretation.
- 2.4 Words and phrases referring to a natural person also denote a juristic person, and visa versa.
- 2.5 Expressions in the singular also denotes the plural and visa versa.

3. USING THE STREETS

- 3.1 The general speed limit in the Estate is 30 km/h.
- 3.2 Motorists must drive with caution. No person shall drive or ride any vehicle within the Estate in such a manner that would constitute an offence under any traffic ordinance.
- 3.3 Only licensed vehicles, motor cycles and licensed drivers/riders that qualify as such in accordance with the National Road Traffic Act 1996 are permitted to drive in the Estate. Except for purposes of arrival and departure or visiting other residents, motorbikes, petrol driven scooters or motor vehicles may not drive around the Estate at any time.
- 3.4 Vehicles may not be driven anywhere except on the streets of the Estate.
- 3.5 All vehicles shall be in a good and roadworthy condition. Without limiting the generality of the foregoing, vehicles emitting excessive noise and/or smoke are prohibited. Motorcycles and quad bikes must be vehicles with the necessary silencing and with low emissions according to the Road Traffic Act 1966.
- 3.6 Parking on sidewalks and on Open Space and in the street opposite traffic islands is prohibited.

4. GOOD NEIGHBOURLINESS

- 4.1 No business activity or hobby, which causes aggravation or nuisance to fellow residents, may be conducted. Auctions and jumble sales are prohibited except where the Trustees have approved of such in writing.
- 4.2 The volume of music or electronic instruments, partying and the activities of employees should be kept at a generally acceptable level. Music should not be played outside, or on patios, after midnight.
- 4.3 Mechanical maintenance and the use of power-saws, lawn mowers and the like (electric mowers are preferred), should only be undertaken between the following hours: Monday to Saturday 08.00 – 17.30.
- 4.4 Washing may only be hung in a washing yard that meets with the requirements of the Design Guidelines and Rules.
- 4.5 All refuse must be placed in wheelie bins. Black bins must be provided for household refuse, and green bins for recyclable material. Bins should not be placed on the sidewalk except on day of collection.
- 4.6 No advertisements or publicity material may be exhibited or distributed without the consent of the Trustees.

5. ENSURING A PLEASING STREETScape

- 5.1 The collective pride of our Estate depends to a great extent on all Members contributing towards the creation and maintenance of a neat and pleasing streetscape.
- 5.2 Every Member has a responsibility to the Estate community and must maintain the area between the road curb and the boundary of his/her property.
- 5.3 Residents are responsible for maintaining trees, plants and shrubs planted on their sidewalks.
- 5.4 Caravans, trailers and boats may not be permanently parked, for more than one week at a time, in view of the street and neighbouring stands, except with the written permission of the Trustees. The Trustees will, in considering applications for such parking take account of the aesthetics of the estate, and will favour situations where the caravan, boat or trailer is parked under an approved structure constructed within the building lines of the property.
- 5.5 Wendy houses, tool sheds and dog kennels must be sited out of view of the street and screened from neighbouring properties.
- 5.6 Building material may not be dumped on the sidewalks or on vacant stands.
- 5.7 No trees, plants or sidewalk lawn may be removed from sidewalks without permission of the Association. Planting should not interfere with pedestrian traffic or obscure the vision of motorists.
- 5.8 Gardens must be kept neat and tidy at all times.

6. BUILDING AND MAINTENANCE OF BUILDINGS

- 6.1 The provisions of the Constitution and Architectural Guidelines and Rules relating to the construction of buildings and structures in the Estate shall be strictly complied with.
- 6.2 No building or structure may be erected, altered or added to in the Estate unless the plan submission requirements as per the Architectural Guidelines and Rules have been met and the plans, specifications and construction thereof comply with the Architectural Guidelines and Rules and have been approved by the Consultant Architect, the Trustees and the Municipality.
- 6.3 The Trustees assisted by the Consultant Architect may approve applications for a waiver of a minor nature from the Architectural Guidelines and Rules whereas those considered by the Trustees to be of a major nature must be referred to a General Meeting of the Association.
- 6.4 If the Architectural Guidelines and Rules are vague and/or incomplete in

any respect and/or if any dispute arises with regard to the interpretation of the Architectural Guidelines, the matter shall be determined by the Trustees after consultation with the Consultant Architect and, where appropriate in the opinion of the Trustees, such other Architect as may be nominated by them. A determination by the Trustees will be final and binding.

- 6.5 Members shall be obliged to maintain the buildings and structures erected on their properties to the satisfaction of the Association as determined by the Trustees, where appropriate in the opinion of the Trustees, after they have consulted the Consultant Architect. A determination by the Trustees will be final and binding.
- 6.6 The appointment of building contractors is subject to the prior written approval of the Association, which approval shall not be unreasonably withheld.
- 6.7 Every building contractor shall be required to abide by such rules and regulations as may be made by the Association controlling construction activities, and to sign such prescribed undertaking as may be determined by the Association with regard thereto. A building contractor will not be allowed to undertake any building work on the Estate until such time as the undertakings referred to in this Rule have been given.
- 6.8 The position, size and location of aerials and/or satellite dishes must take into account the effect on the view from neighbouring properties. No ham radio aerials are permitted.

7. ENVIRONMENTAL MANAGEMENT

- 7.1 Swimming pool water may not be emptied onto parks, but must be channelled into the storm water system.
- 7.2 Vacant erven must be regularly tidied and cleared of alien vegetation to the satisfaction of the Association.
- 7.3 It is prohibited to fish, to release any fish into, to swim, or to allow dogs to swim or play in the pond on the Estate or otherwise interfere with the wildlife in the Estate.

8. SECURITY

- 8.1 All Members, Tenants, Visitors and all other persons entering the Estate are required to adhere to access control procedures.
- 8.2 Security personnel must be treated with co-operation and courtesy.
- 8.3 All Members and Tenants must provide the Association, via the Managing Agent, with the names of their domestic workers, gardeners, garden contractors, service providers and any general contractors and, if possible, frequency of their visits. Failure to comply with this rule may

lead to the security guards not allowing these persons entry to the Estate when the Member or Tenant is not in residence or at home.

- 8.4 Owners and Tenants must apply with the Managing Agent for vehicle tokens to admit entrance to the Estate. These tokens must be displayed on their vehicles at all times when entering the Estate.
- 8.5 All vehicle registration numbers of Visitors and the property to be visited must be recorded at the entrance to the estate.
- 8.6 Visitors will be granted access to the Estate only after telephonic confirmation has been obtained from the Member or Tenant to be visited.
- 8.7 Members and Tenants remain responsible for the conduct of Visitors and persons entering the Estate at their invitation or request. An express condition of admittance to the Estate is that should a Visitor, domestic worker, gardener, garden contractors, service providers and any general contractor be found to be in contravention of the Rules of the Estate, the Trustees may refuse access to such person should they be of opinion that the contravention of the Rules by such person compromises or endangers the security of the estate.
- 8.8 All attempts at burglary or instances of fence jumping must be reported to the Security Service Provider.
- 8.9 Should residents purchase burglar alarms linked to a monitoring system, they are requested to advise the monitoring service to contact the Security Service Provider in the event that the alarm is activated.

9. LETTING, RESELLING AND USE OF PROPERTY FOR PROPERTY

9.1 A clearance certificate must be obtained from the Association prior to any transfer of ownership. The clearance certificate will only be issued to a Member who has paid all monies due to the Association or has secured their debt to the Association to the satisfaction of the Trustees, and who is not in breach of any Rules of the Association or owing any unpaid fines.

9.2 Members may only let their property if they are in good standing with the Association. No member who is in arrears with the payment of any of his or her levies in terms of Rule 11 or in breach of any of the Rules of the Association may let his or her property.

9.3 The Association imposes certain rules to be followed by Members marketing their properties for sale or rent through estate agents. In order to ensure that the Rules of Whale Rock Heights are made known to all tenants and buyers, the following rules relating to the selling or letting of property apply:

9.3.1 Members who have obtained the permission of the Association in terms of Rule 9.4 of these Conduct Rules to let their property, must inform and provide copies of the lease agreements to both the Managing Agent and the Estate Manager together with the name, telephone and e-mail contact details of the tenant and the amount of rental to be paid. This applies to both holiday and long- term rentals. It also applies if the property is occupied by family, friends or visitors. Members are reminded that in terms of Architectural Rule 2, the maximum occupancy that is allowed in the Estate is 2 persons per bedroom.

9.3.2 Members or their estate agents must ensure that the buyer/tenant is informed about and receives a copy of these Rules and where the property is sold, the Constitution and the Architectural Guidelines and Rules.

9.3.3 Members or their estate agents must accompany a prospective tenant/buyer to view property in the Estate. No "For Sale" or "To Let" signs may be erected on the Estate.

9.4 Members selling or letting their property must ensure that the sale/lease agreement contains the following clauses:

9.4.1 That the purchaser acknowledges that he or she, upon registration of transfer of ownership, becomes a Member of the Association and as such will be bound to the Constitution, these Rules and the Architectural Guidelines and Rules.

9.4.2 Upon occupation of the premises, the Tenant acknowledges he or she and their family, visitors and employees will comply with all rules of Association.

9.4.3 That compliance with these Rules by a Tenant is an essential term of the lease, failing which the lease agreement may be cancelled.

9.4.4 Where a Tenant persists in failing to comply with these Rules despite written demand by the Managing Agent the Member must, when so directed by the Trustees, take such steps as may be necessary or required in law to cancel the lease agreement and ensure that the Tenant is evicted from the Estate.

9.5 Properties in Whale Rock Heights are intended as residential properties. No Member of the Association may conduct a business or commercial enterprise on their property without prior written permission being obtained from the Association, and then only on such terms and conditions that the Association may specify.

9.5.1 Members and members making use of estate agents to let their property shall ensure that all lease periods exceed a minimum of 14 consecutive days.

10. PETS

- 10.1 The local authority by-laws relating to pets apply in the Estate.
- 10.2 No more than two dogs and two cats allowed per household are allowed without written permission from the Trustees.
- 10.3 Every dog kept in the Estate must wear a collar with a tag indicating the name and telephone number of its owner.
- 10.4 Dogs must be fenced in and must be on a leash when on Open Space in the Estate.
- 10.5 Stray dogs and cats found in the Estate without identification tags may be caught and handed to the Plett Animal Welfare Services.
- 10.6 Tenants and Visitors will not be allowed to keep animals, other than cats and dogs, in the Estate without written permission from the Trustees.
- 10.7 Should any excrement be deposited by a pet on any area of the Open Space, the immediate removal thereof is the sole responsibility of the owner of the pet.
- 10.8 The owners of pets kept in the Estate must strictly control them and not allow the persistent barking of dogs, caterwauling of cats or any other disturbance by pets including allowing pets to pose a threat or danger to people, especially small children.
- 10.9 The Association reserves the right to, through the Trustees, require a pet to be removed from the Estate should it become a nuisance within the Estate.

11. LEVY ACCOUNTS

- 11.1 In accordance with the Constitution the following amounts will form part of the levies to the Association due by a Member:
 - 11.1.1 Any monthly, annual or special levy.
 - 11.1.2 Fines and penalties imposed by the Association in terms of these Rules.
 - 11.1.3 All costs, expenses, charges and disbursements incurred by the Association in any action and/or proceedings taken and/or instituted to determine and/or obtain and/or enforce a levy and/or any other amount of whatsoever nature due by the Member to the Association.
- 11.2 All monthly levies are due and payable in advance by the 7th day of each month. All annual or special levies are due and payable on the date determined by the Trustees. All fines, penalties and cost due to the Association by a Member will be debited to the levy account of the

Member at the end of the month wherein it was imposed or paid by the Association as the case may be.

11.3 Interest as determined by the Trustees in accordance with the Constitution from time to time will be raised on all overdue accounts.

11.4 Any account 30 days overdue will be handed over for legal process.

12. COMMUNICATION

12.1 All correspondence to be submitted in English at all times. Any complaints must be in writing and submitted through the Managing Agent.

12.2 Upon becoming a Member of the Association, all Members must provide their contact details, including their physical, postal and e-mail addresses and telephone contact details to the Managing Agent. In the case of a Member that is not a natural person, for example a company, closed corporation or trust, a natural person must be appointed to represent the company, closed corporation, trust or the like in all its dealings with the Association and proof of such appointment together with the representative's contact details as aforesaid must at all times be lodged with the Managing Agent.

12.3 In order to facilitate expedient communication between Members and the Association, Members are encouraged in all standard matters to communicate with the Managing Agent by way of e-mail. Similarly when the Managing Agent communicates with Members this will be done by e-mail.

12.4 The Managing Agent must be advised of any change of address, e-mail or telephone contact details of a Member and/or representative to be able to successfully communicate with all Members at all times. Members who fail to change any of their aforesaid particulars will be presumed to have received a communication sent to any of their addresses, including the e-mail address on record with the Managing Agent.

12.5 It will be deemed that an e-mail sent to a Member at an e-mail address provided by him or her was received on the same day as it was despatched.

12.6 The official address of the Association that will serve as its *domicilium citandi et executandi* will be that of the Managing Agent from time to time.

12.7 For official purposes the *domicilium citandi et executandi* address of a Member will be the erf or erven registered in such Member's name provided that a Member may change his or her *domicilium citandi et executandi* to an address within the Republic of South Africa and provided further that such change shall only be effective on the receipt of written notice thereof by the Association.

- 12.8 It is recorded that whenever an official notification is served on a Member at his or her *domicilium citandi et executandi* address the Managing Agent will take reasonable steps to endeavour to notify such Member of such service.

13. INTERPRETATION AND ENFORCEMENT OF RULES

- 13.1 In the event of annoyance, aggravation or complaints occurring between Members, Tenants or Visitors, an attempt should be made by the parties concerned to settle the matter between themselves. This should be done with consideration and tolerance. If the problem cannot be resolved, the matter should be brought in writing to the attention of the Association through the Managing Agent for an interpretation of these Rules by the Trustees.
- 13.2 The Association through the Managing Agent and the Trustees shall investigate (in such manner as they deems fit) written complaints received from Members relating to the behaviour and/or conduct of other Members, Tenants, Visitors or persons on or about the Estate and shall take such steps with regard thereto as it may deem fit.
- 13.3 Members, Tenants and other persons involved in a dispute in terms of these Rules, including where a penalty is imposed, do not have the right to be heard in person by the Managing Agent or Trustees but do have the right to make written representation to them on the matter.
- 13.4 Any interpretation of these Rules by the Trustees, including an interpretation that a matter should not be dealt with by the Association in terms of these Rules, will be final and binding on the parties.
- 13.5 The Association shall be entitled on its own initiative to, through the Managing Agent and the Trustees, investigate the contravention of or failure to act in accordance with these Rules by any person or persons and to take such action as it may deem fit, whether or not complaints have been received.
- 13.6 If any person contravenes or fails to comply with any of these Rules or a determination or directive in terms or interpretation thereof by the Trustees or has in the past done so and has failed to rectify or remedy such failure, the Trustees shall be entitled to impose suitable fines on the person concerned. If the person concerned is a Tenant, Visitor, other invitee or building contractor of the Member concerned, then such Member will be liable for payment of such fine. Any fine imposed on a Member and/or the Member's Tenant, Visitor, Building Contractor or other invitee of the Member shall be deemed to be a debt due and payable by the Member concerned to the Association forthwith on demand.
- 13.7 The penalty which may be imposed by the Trustees shall be a fine not less than R1000.00 (one thousand Rand) and not more than two times the annual levy.

- 13.8 The provisions of this Rule are without prejudice to other rights that the Association may have in terms of the Constitution, the Design Guidelines or at law.
- 13.9 For purposes of the enforcement of any of these Rules, the Trustees may in their discretion:
- 13.9.1 In addition or in alternate to imposing a fine, take or cause to be taken such steps as they may deem necessary to remedy the breach of the Rule of which the Member may be guilty, and debit the cost of so doing to the Member concerned, which amount shall be deemed to be a debt owing by the Member concerned to the Association.
- 13.9.2 Institute such other action, including court or arbitration proceedings as they may deem fit. In any legal proceedings instituted by the Association against a member the Association will be entitled to its legal costs in such proceedings on an attorney client scale.
- 13.10 In the event of any Member disputing the fact that such Member has committed a breach of any of these Rules and/or is liable to pay a fine imposed in term thereof, the Chairperson of the Trustees shall appoint a committee consisting of two Trustees and, should this be necessary in the discretion of the Chairperson, one or more subject expert to adjudicate upon the issue at such time and in such manner and according to such procedure as the Chairman may direct.

Any decision of the appointed committee will be final and binding.

14. AMENDMENT OF RULES

- 14.1 The Trustees may amend or add to the Conduct Rules from time to time, as they may deem appropriate.