

**MEMORANDUM OF INCORPORATION**

**In terms of  
COMPANIES ACT, 71 of 2008  
OF THE REPUBLIC OF SOUTH AFRICA**

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## 1. **NAME OF COMPANY**

IRENE FARM VILLAGES HOME OWNERS' ASSOCIATION NPC

Registration No. of Company: 2000/030502/08.

## 2. **DEFINITIONS**

In these present the following words shall, unless the context otherwise requires, have the meanings hereinafter assigned to them:

- 2.1 "the Act" means the Companies Act, 71 of 2008, as amended from time to time;
- 2.2 "auditors" mean the auditors of the Association;
- 2.3 "chairperson" means the chairperson of the Board of Directors;
- 2.4 "the Association" means Irene Farm Villages Home Owners' Association NPC;
- 2.5 "Directors" means the Directors of the Association who shall, for the purposes of the Act, be the directors of the Association;
- 2.6 "the stand" means a stand in the township of Irene Extension 36, 39, 44, 49 and 55, or any stand developed by the Developer on the property;
- 2.7 "Township" means the Proposed Township of Irene Extension 36, 39, 44, 49 and 55 or any portion thereof;
- 2.8 "vice-chairperson" means the vice-chairperson of the Board of Directors;
- 2.9 "development period" means the period from the establishment of the Association until all stands of Irene Extension 36, 39, 44, 49 and 55 and any stand in any residential township established on the property have been sold; alternatively, until the Developer notifies the Association that it waives the rights herein conferred upon it during the development period;
- 2.10 "Property" means a portion of the Remaining Extent of Portion 5 of the Farm Doornkloof 391 JR on which the proposed townships of Irene Extension 36, 39, 44, 49 and 55 (as approved by the Town Council of Centurion) are to be established. The townships to be established on the Property shall only become part of the "Property" once they are proclaimed as such;
- 2.11 "Participation Quota" means a decimal fraction, correct to three places arrived at by dividing the extent of a member's stand, correct to the nearest square metre by the extent of the aggregate of all the stands in the township (excluding any stands being private open spaces and any stands utilised for Security of public purposes) of which such stand forms a part, correct to the nearest square metre, subject to Article 7.9;
- 2.12 "General Participation Quota" means a decimal fraction, correct to three places arrived at by dividing the extent of a member's stand, correct to the nearest square metre, by the extent of the aggregate of all existing and proposed townships on the property, correct to the nearest square metre, subject to Article 7.9;
- 2.13 "Architectural Sub-Committee" means the panel consisting of the Directors acting in this capacity, together with any other persons nominated by the Directors to assist them in exercising the functions of an Architectural Sub-Committee;
- 2.14 "Managing Agent" means an individual or business entity appointed by the Board of Directors to assist with the management of the Property in accordance with a defined term of reference in accordance with any statutory requirements including the appropriate registration at the appropriate professional Board.

Unless the context otherwise requires, any word importing the singular number shall also include the plural number, and *vice versa* and words importing any one gender shall include the other gender and *vice versa*.

Subject as aforesaid, any words or expressions defined in the Act or any statutory modification thereof in force at the date on which these Articles become binding on the Association shall, if not inconsistent with the subject or context, bear the same meaning in these Articles.

## 3. **OBJECTS**

The object of IRENE FARM VILLAGES HOME OWNERS' ASSOCIATION NPC ("the Association)" shall be:

- 3.1 To ensure compliance by members with the Conditions of Establishment of any township on the property, with particular reference to the conditions dealing with the aesthetic and building regulations and requirements, and where necessary, to ensure that the Local Authority enforces such Conditions of Establishment.

- 3.2 To act as a liaison between the members of the Local Authority regarding the landscaping and aesthetic usage of the property and the buildings erected or to be erected on the stands or any other matter.
- 3.3 To exercise control over the rights created and still to be created over the stands on the property and to formulate rules and by-laws for the control of buildings, walling, fencing, exterior lighting, signage, aesthetic planning and landscaping of the property and the stands, and to ensure compliance with such rules and by-laws by members of the Association.
- 3.4 To implement and control the principal concepts of the development relating to the security, architecture, landscaping, parking, signage and advertising, exterior finishing and maintenance, as detailed by urban designers, landscape architects and ecological planners of the property appointed by the Architectural Sub-Committee.
- 3.5 To ensure that each member maintains his/her/its stand in a clean and tidy condition and adheres to the specifications imposed by the Association relating to the landscaping and ecological planning. In the event of any member failing to adhere to the specifications and maintenance of his stand, the Directors shall be entitled, but not obliged, to perform the necessary acts and services and recover from such member the costs thereof.
- 3.6 To undertake the maintenance of street verges and the areas of stands situated within building line reserves as defined in 3.5 and, where required by members, to maintain the vegetation and landscaping on any individual stand against payment to the Association of a special levy.
- 3.7 To administer the general security arrangements on the property, with particular reference to controlling access, and the nature and type of security to be provided from time to time, excluding the security arrangements of any particular building on the stand.
- 3.8 To consent or declare any proposed consolidation, subdivision/rezoning of any stand and to stipulate the landscaping and certain aesthetic conditions, which shall apply prior to such rezoning and sub-division, if approved.
- 3.9 To administer and ensure compliance by its members with the provisions of the Site Development Plan of the townships which have been approved by the Local Authority.
- 3.10 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 such members and the collection of levies for which such members are liable.
- 3.11 The Association is not permitted to distribute its funds to any person other than to a similar association of persons.
- 3.12 On dissolution the remaining assets must be distributed to a similar Association of persons, which is also exempt from income tax in terms of the Act.
- 3.13 Any amendments to the Memorandum of Incorporation must be submitted to the Commissioner for the South African Revenue Service.
- 3.14 Funds available for investment may only be invested with a financial institution as defined in section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990), and in securities listed on a stock exchange as defined in section 1 of the Stock Exchange Control Act, 1985 (Act No. 1 of 1985).

#### **4. MEMBERSHIP**

- 4.1 Permanent membership of the Association shall be limited to any person who is, in terms of the Deeds Registries Act, reflected in the records of the Deeds Office concerned as the registered owner of any stand in the Township.
- 4.2 Where any stand is owned by more than one person, all the registered owners of that stand shall together be deemed to be one member of the Association and have the rights and obligations of one member of the Association, provided, however, that all co-owners of any stands shall be jointly and severally liable for the due performance of any obligations to the Association.
- 4.3 When a member becomes a registered owner he shall *ipso facto* become a member of the Association, and when he ceases to be the owner of any stand, he shall *ipso facto* cease to be a member of the Association.
- 4.4 No member shall let or otherwise part with occupation of his stand, whether temporarily or otherwise, unless he has agreed with the proposed occupier of such stand as a "*stipulatio alteri*" in favour of the Association that such occupier shall be bound by all the terms and conditions of these presents.

#### **5. RESIGNATION**

- 5.1 A registered owner of any stand may not resign as a member of the Association.
- 5.2 The rights and obligations of a member shall not be transferable and every member shall:
  - 5.2.1 Further to the best of his ability the objects and interests of the Association; and

- 5.2.2 Observe all rules made by the Association of the Directors, provided that nothing contained in these Articles of Association shall prevent a member from ceding his rights in terms of these Articles as security to the mortgagor of the member's stand.

## **6. DUTIES OF MEMBERS**

Each member shall:

- 6.1 Abide by the Articles of Association and adhere to the rules and by-laws proclaimed by the Directors from time to time.
- 6.2 Pay the charges levied by the Directors in terms of Article 7 hereof from time to time on due date.
- 6.3 Obtain the consent of the Architectural Sub-Committee to any building plans before submitting these for approval to the Local Authority and before commencing with any building, walling, fencing and signage operations, exterior lighting, painting or repainting of exterior finishes. In the event of a member being aggrieved by a decision of the Directors, such dispute shall be referred to Architects who have been appointed to monitor architectural designs in the development. Their decision shall be final and binding on the parties.
- 6.4 Maintain his/her/its stand in a clean and tidy condition to the satisfaction of the Directors. Should the Directors be of the opinion that a member is not complying with the Articles of Association, the Directors shall give such member reasonable notice, depending on the nature of the breach, failing which, where possible, the Directors shall be entitled to perform the work of services which is required to be done or provided at the expense of the member, and shall be entitled to recover all expenditure in this connection from the member, together with interest calculated thereon at prime bank rate, for the period from date of expenditure to date of repayment.
- 6.5 Not construct a building on the stand in a manner which causes danger, nuisance or disturbance to the occupiers of the neighbouring stands and, where applicable, the member shall cause suitable screens and/or barricades to be erected to reduce the emission of noise, dust, waste, effluent or other nuisance from the stand. The construction of such should be submitted to the Architectural Sub-Committee in terms of clause 6.3 accompanied with consent received from the members of the neighbouring stands.
- 6.6 Not burn or permit to be burnt any materials or rubbish resulting from or in connection with construction on the stand and shall ensure that such materials or rubbish be removed from the stand.
- 6.7 Repair at his/her/its cost and expense any damage to the infrastructure, side walls and road shoulders or any part of the common or public areas in the Township caused by the member or his/her/its agents during the course of the construction on the stand.
- 6.8 Not interfere with the convenience of the common or public areas within the Township during construction of any approved building.
- 6.9 Ensure that all reasonable means are used to prevent the roads leading to the stand from being damaged or injured by any act or omission of the building contractor engaged by the member in respect of the construction on the stand and the subcontractors of the building contractor and the servants or agent of the member whilst moving equipment and materials to and from the stand.
- 6.10 Indemnify and shall keep the Association indemnified in respect of all loss, damage, cost or expense which may be suffered by the Association as a result of any claim, demand, suit or proceedings which may be instituted against the Association as a result of any breach of any of the above obligations by the Member.
- 6.11 Prevent the accumulation of trash or garbage or other waste material on the stand except in containers located in appropriate areas screened and concealed from the view so that odours do not emanate from such containers. Provided such containers may not be placed on any common area or upon a thoroughfare for a period exceeding TWENTY-FOUR (24) HOURS.
- 6.12 Prevent the stand from being used for any purposes, which may be illegal or injurious to the other stands in the Township.

## **7. LEVIES**

- 7.1 The Directors may, subject to Article 7.11 hereof, from time to time impose levies upon the members for the purpose of meeting all the expenses which the Association has incurred or which the Directors reasonably anticipate the Association will incur in the attainment of its objects or the pursuit of its business. Levies will be limited to the objectives of the Association in pursuit of the business of the Association.

- 7.2 The Directors shall not less than 30 (THIRTY) days prior to the end of each financial year, or so soon thereafter as reasonably possible, prepare and serve upon every member at the address chosen by him, an estimate in reasonable detail of the amount which shall be required by the Association to meet the expenses during the following financial year, and shall specify separately such estimated deficit, if any, in surplus, as shall result from the preceding year. The Directors may include in such estimate an amount to be held in reserve to meet anticipated expenditure not of an annual nature.
- 7.3 Each notice to each member shall specify the contribution payable by that member to such expense and reserve fund.
- 7.4 Every levy shall be payable in equal monthly instalments, due in advance on the first day of each and every month of each financial year.
- 7.5 In the event of the Directors for any reason whatsoever failing to prepare and serve the estimate referred to in Article 7.2 above timeously, every member shall, until service of such estimate as aforesaid, continue to pay the levy previously imposed and shall, after such service, pay such levy as may be specified in the notice referred to in Article 7.2.
- 7.6 The Directors may from time to time impose special levies upon the members in respect of all such expenses, as are mentioned in Article 7.1, which were not included in any estimate made in terms of Article 7.2 and may, in imposing such levies, further determine the terms of payment thereof.
- 7.7 The Directors shall be empowered in addition to such other rights as the Association may have in law as against its members to determine the rate of interest from time to time chargeable upon arrear levies, provided that such rate of interest shall not exceed the rate laid down in terms of the Limitation and Disclosure of Finance Charges Act No 73 of 1968, as amended.
- 7.8 Any amount due by a member by way of levy and interest shall be a debt due by him to the Association. The obligations of a member to pay a levy and interest shall cease upon him ceasing to be a member without prejudice to the Association's right to recover arrear levies and interest. No interest on levies paid by a member shall under any circumstances be repayable by the Association upon his ceasing to be a member. A member's successor in title to a stand shall be liable as from the date upon which he becomes a member pursuant to the transfer of that stand, to pay the levy and interest thereon attributable to that stand.
- 7.9 The Association shall be entitled to refuse traversing rights over its access security stands to any member of such member's employees, invites or visitors, while such member is in breach of any of the terms and conditions of membership or rules of the Association, all of which are deemed to be material.
- 7.10 In calculating the levy payable by any member, the Directors shall, as far as reasonably practicable:
- 7.10.1 Assign those costs directly attributable to a particular township and which is also directly attributable to a specific stand in that township to the member owning such stand;
  - 7.10.2 Assign those costs directly attributable to a particular township, but which is not directly attributable to a stand in such township generally to the owners of all stands in that township in accordance with their participants' quota from time to time;
  - 7.10.3 Assign those costs not directly attributable to a particular township to the owners of all stands in proclaimed townships in accordance with their general participation quota;
  - 7.10.4 The Directors may in any case, where they consider it equitable to do so, assign to any member any greater or lesser share of the costs as may be reasonable in the circumstances, but subject to Article 7.11 hereof.
- 7.11 The powers of the Directors to raise levies, special levies and any other contributions from members in terms of these Articles, shall be subject to the following restrictions:
- 7.11.1 The aggregate of the total monthly levies and contributions raised from members in any financial year, shall not exceed 0,35c (THIRTY-FIVE CENTS) per square meter of the stand per month, for the period up to and until the 31<sup>st</sup> December 2001;
  - 7.11.2 The amount of 0,35c (THIRTY-FIVE CENTS) per square meter shall not be escalated by more than 15% (FIFTEEN PER CENT) per annum and the first escalation shall not take effect before the 31<sup>st</sup> December 2002;
  - 7.11.3 The Directors shall not raise any levy in respect of costs attributable to the land not forming part of a proclaimed township and upon which the township referred to in these Articles are established, unless a 51% (FIFTY-ONE PER CENT) majority of all owners, calculated according to general participation quotas, agree that such costs shall constitute costs in respect of which levies may be raised. Such agreement shall not be required in respect of the maintenance and upkeep of security installations or lighting of the entrance facade and boundary fenced in respect of the township, or the transfer of properties to the Association;
  - 7.11.4 The provisions of this Article 7.11 shall not be cancelled, amended or otherwise affected by any amendment to this Articles of Association unless such cancellation, amendment or variation is adopted at a meeting of members at which the following conditions have been met:

- 7.11.4.1 The resolution must be adopted by a resolution of not less than 95% (NINETY-FIVE PER CENT) of members present at the meeting of members; and
- 7.11.4.2 Only members present at the meeting or represented by a person as provided for in Section 58 of the Companies Act, shall be entitled to vote; and
- 7.11.4.3 The meeting shall be given notice of, with at least 21 (TWENTY-ONE) clear days' written notice; and
- 7.11.4.4 Members holding at least 25% (TWENTY-FIVE PER CENT) of the votes of all Members entitled to vote and representing at least 25% (TWENTY-FIVE PER CENT) of members in number shall be present at the meeting in person or represented by a person as provided for in Section 58 of the Companies Act.

## **8. DIRECTORS**

- 8.1 There shall be a Board of Directors of the Association which shall consist of not less than 3 (THREE), nor more than 7 (SEVEN) members.
- 8.2 A Director shall be an individual but need not himself be a member of the Association. A Director, however, by accepting his appointment to office as such, shall be deemed to have agreed to be bound by all the provisions of these Articles.
- 8.3 The Board of Directors to be appointed to office shall be elected in a general meeting by the members in person or by proxy who will be entitled to vote in such a general meeting.

## **9. REMOVAL AND ROTATION OF DIRECTORS**

- 9.1 A Director shall be elected by the Members for a period of two (2) consecutive years of office and shall be deemed to have retired from office in accordance with the provisions of Clause 9. A Director may resign from the Association's Board after 1 (one) year of service instead of the two (2) years referred to.
- 9.2 Upon the retirement of a Director from office as prescribed in accordance with Clause 9.1 and read with Clauses 9.3 and 9.4 such Director shall be responsible to hand over his portfolio to the newly elected Director for such portfolio within thirty (30) days from the Annual General Meeting accompanying his retirement and/or be assigned a different portfolio.
- 9.3 Save as set out in Article 9.4 below, each Director shall continue to hold office as such from the date of his commencement to office until the Annual General Meeting next following his said appointment, at which meeting each Director shall be deemed to have retired from office as such, but will be eligible for re-election to the Board of Directors at such meeting.
- 9.4 A Director shall be deemed to have vacated his office as such upon:
  - 9.4.1 His having become disqualified to act as a director in terms of the provisions of the Act;
  - 9.4.2 His being removed from office as provided in Section 71 of the Act;
  - 9.4.3 In the event of his being a member of the Association, his being disentitled to exercise a vote in terms of Article 21 below; and
  - 9.4.4 his failure to attend three (3) consecutive Board meetings, without good reason, which he shall submit to the Board for the Board's consideration, whether there is good reason or not.
- 9.5 Upon any vacancy occurring in the Board of Directors prior to the next Annual General Meeting, the vacancy in question shall be filled by the person nominated by those remaining for the time being of the Board of Directors.

## **10. CHAIRPERSON AND VICE-CHAIRPERSON**

- 10.1 The Directors shall within 14 (FOURTEEN) days after each Annual General Meeting appoint a chairperson and vice-chairperson, who shall hold their respective offices until the Annual General Meeting following after their said appointments, provided that the office of the chairman or vice-chairman shall *ipso facto* be vacated by a Director holding such office upon his ceasing to be a Director for any reason. No one Director shall be appointed to more than one of the aforesaid offices. In the event of any vacancy occurring in either of the aforesaid offices at any time, the Board of Directors shall immediately appoint one of their number as a replacement in such office.
- 10.2 Except as otherwise provided, the chairperson shall preside at all meetings of the Board of Directors and all general meetings of members and, in the event of his not being present within 5 (FIVE) minutes of the scheduled time for the start of the meeting or in the event of his inability or unwillingness to act, the vice-chairperson shall act in his stead, or failing the vice-chairperson, a chairperson appointed for the meeting.

## **11. DIRECTORS' EXPENSES**

- 11.1 Directors shall be entitled to be repaid all reasonable and *bona fide* expenses incurred by them respectively in or about the performance of their duties as Directors. Save as aforesaid, Directors shall not be entitled to any remuneration for the performance of their duties in terms hereof, unless the Association in general meeting otherwise decides.

## **12. POWERS AND DUTIES OF DIRECTORS**

- 12.1 Subject to the express provisions hereof, the Directors shall be responsible for the administration, control, management and services required in the fulfilment of the objects of the Association as defined in Article 3 hereof and to manage and control the business and affairs of the Association. The Directors shall have full powers in the management and direction of such business and affairs including the right of appointment and dismissal of the managing agent, and may exercise all such powers of the Association and do all such acts on behalf of the Association as may be exercised and done by the Association and as are not by the Act or by these presents required to be exercised or done by the Association in general meeting, subject, however, to such rules as may have been made by the Association in general meeting or as may be made by the Directors from time to time.
- 12.2 Save as specifically provided in these presents, the Directors shall at all times have the right to engage on behalf of the Association the services of accountants, auditors, attorneys, advocates, architects, engineers and managing agents and any other professional firm or person or other employees whatsoever for any reason deemed necessary by the Directors and on such terms as the Directors shall decide.
- 12.3 Subject to any restriction imposed and direction given at a general meeting of the Association, the powers of the Directors shall include the following:
- 12.3.1 To act as review panel to approve in principle any design concepts submitted prior to any detailed sketch plans or working drawings made, and thereafter approving sketch plans being submitted;
- 12.3.2 To attend to the final approval of any building plans prior to such plans being submitted to the Local Authority;
- 12.3.3 To appoint for and on behalf of the Association such agent and employees as they deem fit in connection with the control, management and administration required in terms of the Articles of Association, more particularly for the maintenance of the street verges and areas of individual stands falling within the building line reserves, as defined in Article 3.5 hereof;
- 12.3.4 To delegate to one or more of their members such of their powers and duties as they may deem fit, and at any time to revoke such delegation;
- 12.3.5 To make rules and by-laws for the control, use, safety, cleanliness and aesthetic landscaping of the property, and to determine by rule and by-law from time to time promulgated, the security, vegetation, continuity, parking, signage and advertising, exterior finishes and maintenance;
- 12.3.6 To open and operate a current account and savings account with a Banking Institution or Building Society;
- 12.3.7 To purchase, hire or otherwise acquire movable property for use in fulfilling the duties imposed on the Directors in terms of these Articles of Association;
- 12.3.8 To liaise with the Local Authority regarding any matter falling under the ambit of these Articles of Association, or on behalf of any member;
- 12.3.9 To utilise the facilities and equipment of the Association for purposes of providing a maintenance service in respect of the individual stand of any member relating to such member's stand, excluding the area defined in Article 3.5 hereof, against a remuneration to be determined by the Directors from time to time;
- 12.3.10 To ensure that members adhere to the provisions of these Articles of Association;
- 12.3.11 To do all things reasonably necessary for the enforcement, management, control and administration devolving upon the Directors in terms of these Articles of Association, as more fully set out in the Articles with regard to the Rules.
- 12.4 The Directors are hereby empowered to establish for administrative expenses a fund sufficient in the opinion of the Directors for the upkeep, control, management and administration required to be performed by the Directors in terms of these Articles of Association, and for the acquisition of such movables as may be required for purposes of providing the services to be rendered in terms hereof, or for the discharge of any duty imposed upon the Directors in terms hereof.
- 12.5 The Board of Directors shall have the right to co-opt on the Board any person or person chosen by it. A co-opted Director need not necessarily be a member of the Association.
- 12.6 The Directors shall be entitled to appoint committees consisting of such outsiders, including the managing agent, as they deem fit and to delegate to such committees such of their functions, powers and duties as they may deem fit, with further power to vary or revoke such appointments and delegations as the Directors may, from time to time, deem necessary.

### **13. PROCEEDINGS OF DIRECTOR**

- 13.1 The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings, as they think fit, subject to any provisions of these presents.
- 13.2 The quorum necessary for the holding of any meetings of the Directors shall be 2 (TWO) present personally. Any resolution of the Board of Directors shall be carried on a simple majority of all votes cast. In the case of equality of votes for and against any resolution, the resolution shall be deemed to have been defeated.
- 13.3 The Directors shall cause minutes to be kept of every Directors' meeting, which minute shall, without undue delay after the meeting has closed, be reduced to writing and certified correct by the chairperson. All minutes of Directors' meetings shall, after certification, be placed in a Directors' minute book to be kept in accordance with the provisions of the Act relating to the keeping of minutes of meetings of directors of companies. The Directors' minute book shall be open for inspection at all reasonable times by any Director, the auditors, the members and the managing agent.
- 13.4 Save as provided in these presents, the proceedings or any Directors' meeting shall be conducted in such reasonable manner and form as the chairperson of the meeting shall decide.
- 13.5 A resolution signed by all the Directors shall be valid in all respects as if it had been duly passed at a meeting of the Board of Directors.

### **14. GENERAL MEETINGS OF THE ASSOCIATION**

- 14.1 The Association shall within 6 (SIX) months after the end of each financial year hold a general meeting as its Annual General Meeting in addition to any other general meetings during that year, and shall specify the meeting as such in the notices in terms of Article 14.4 below calling it.
- 14.2 Such Annual General Meeting shall be held at such time and place, as the Directors shall decide from time to time.
- 14.3 All general meetings other than Annual General Meetings shall be called Extraordinary General Meetings.
- 14.4 The Directors may, whenever they think fit, convene an extraordinary general meeting, and an extraordinary general meeting shall also be convened on a requisition made in terms of Section 61 of the Act, or, in default, may be convened by the requisitioners, as provided by and subject to the provisions of that Section.

### **15. RULES**

- 15.1 Subject to any restriction imposed or direction given at a general meeting of the Association, and subject thereto that it must be equitable, the Association may at a general meeting itself make any rule and vary or modify any rules made by it, from time to time, make rules in regard to:
- 15.1.1 The architectural design, construction, quality and building materials of any proposed building to be erected on any stand in the Township;
- 15.1.2 Determine from time to time Rules with regard to the security, vegetation, landscaping, parking, signage and advertising, exterior finishes and maintenance of any stand or building or the property itself;
- 15.1.3 The furtherance and promotion of any of the objects of the Association and/or for the better management of the affairs of the Association and/or for the advancement of the interests of members and/or lessees of the stands;
- 15.1.4 The maintenance of all buildings, outbuildings, structures, electricity, water and sewerage reticulation, improvements of any nature and landscaping on the stand;
- 15.1.5 The right of reasonable access to any stand in order to affect the maintenance of any matters referred to in Article 15.1 above.
- 15.2 For the enforcement of any of the rules made by the Directors in terms hereof, the Directors may:
- 15.2.1 Take or cause to be taken such steps as they may consider necessary to remedy the breach of the rule of which the member may be guilty, and debit the costs of so doing to the member concerned which amount shall be deemed to be a debt owing by the member concerned to the Association, and/or
- 15.2.2 Impose a system of fines or other penalties. The amounts of such fines shall be reviewed and confirmed at each Annual General Meeting of the Association, and/or
- 15.2.3 Take such other action, including proceedings in Court, as they may deem fit.



- 15.3 In the event of Directors instituting any legal proceedings against any member or resident on the stand for the enforcement of any of the rights of the Association in terms hereof, the Association shall be entitled to recover all legal costs so incurred from the member or resident concerned, calculated as between attorney and own client.
- 15.4 In the event of any breach of the rules by the members or any member's household or his guests or lessees, such breach shall be deemed to have been committed by the member himself, but without prejudice to the afore-going, the Directors may take or cause to be taken steps against the person actually committing the breach as they in their discretion may deem fit.
- 15.5 In the event of any member disputing the fact that he has committed a breach of any of the rules, a committee of 3 (THREE) Directors appointed by the chairperson for that purpose, shall adjudicate upon the issue at such time and in such manner and according to such procedure (provided that the rules of natural justice shall be observed) as the chairperson may direct.
- 15.6 Any fine imposed upon any member shall be deemed to be a debt due by the member to the Association and shall be recoverable by ordinary civil process.
- 15.7 Notwithstanding anything to the contrary herein contained, the Directors may in the name of the Association enforce the provisions of any rules by civil application or action in a court of competent jurisdiction and for this purpose may appoint such attorneys and council as they may deem fit.

## **16. NOTICES OF MEETINGS**

- 16.1 An Annual General Meeting and a meeting called for the passing of a special resolution, shall be called by at least 21 (TWENTY ONE) days' notice in writing, and an extraordinary general meeting other than one called for the passing of a special resolution shall be called for by at least 14 (FOURTEEN) days' notice in writing. In each case the notice shall be exclusive of the day on which it is given, and shall specify the place, the day and the hour of the meeting, and in the case of special business, in addition to any other requirements contained in these presents, the general nature of that business, and in the case of a special resolution, the terms and effect of the resolution and the reasons for it shall be given in the manner hereinafter mentioned or in such manner, if any, as may be prescribed by the Directors to such persons as are under these presents entitled to receive such notices from the Association, provided that a general meeting of the Association shall, notwithstanding that is called by shorter notice than that specified in these presents be deemed to have been duly called if it is so agreed:
- 16.1.1 In the case of a meeting called as the Annual General Meeting by all members entitled to attend and vote thereat; and
- 16.1.2 In the case of an extraordinary general meeting, by a majority in number of the members having a right to attend and vote at the meeting, being a majority together holding not less than 75% (SEVENTY-FIVE PER CENT) of the total voting rights of all members.
- 16.2 Insofar as special notice may be required of a resolution, whether by any provision of the Act or these Articles, then the provisions of Section 62 of the Act shall apply:
- 16.2.1 The Association shall comply with the provisions of Section 61 and 62 of the Act as to giving of notice and circulating statements on the requisition of members.
- 16.2.2 The accidental omission to give notice of a meeting or of any resolution, or to give any other notification, or present any document required to be given or sent in terms of the Act, or the non-receipt of any such notice, notification or document by any other member or other person entitled to receive same, shall not invalidate the proceedings at, or any resolution passed at, any meeting.

## **17. QUORUM**

- 17.1 No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business. The quorum of a general meeting shall be 25% (twenty five percent) of members entitled to vote either in person or proxy.
- 17.2 If, within half an hour from the time appointed for the holding of a general meeting, a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same place and time or at such other place as the chairperson of the meeting shall appoint, and if at an adjourned meeting a quorum is not present within half an hour from the time appointed for holding the meeting, the members present shall be a quorum.

## **18. AGENDA AT MEETING**

- 18.1 In addition to any other matters required by the Act or these present to be dealt with at an Annual General Meeting, the following matters shall be dealt with at every Annual General Meeting:
- 18.1.1 The consideration of the chairperson's report;
- 18.1.2 The election of Directors;

- 18.1.3 The consideration of any other matters raised at the meetings, including any resolutions proposed for adoption by such meeting, and the voting upon any such resolutions;
- 18.1.4 The consideration of the accounts of the Association for the proceeding financial year;
- 18.1.5 The consideration of the report of the auditors and the fixing of remuneration for the auditors.

## **19. PROCEDURE AT GENERAL MEETINGS**

- 19.1 The chairperson may, with the consent of any general meetings at which a quorum is present, and shall if so directed by the meeting, adjourn a meeting from time to time and place to place but no business shall be transacted at any adjourned meeting other than business which might have been transacted at the meeting from which the adjournment took place. Whenever a meeting is adjourned for 10 (TEN) days or more, notice of the adjourned meeting shall be given in the same manner as of an original meeting. Save as foresaid, the members shall not be entitled to any notice of adjournment of the business to be transacted at an adjourned meeting.

## **20. PROXIES**

- 20.1 A member may be presented at a general meeting by a proxy, who need not be a member of the Association. The instrument appointing a proxy shall be in writing signed by the member concerned or his agent, duly authorised in writing, but need not be in any particular form provided that, where a member is more than 1 (ONE) person, a majority of those persons shall sign the instrument appointing a proxy on such member's behalf.
- 20.2 The instruments appointing a proxy and the power of attorney or any other authority under which it is signed shall be tabled at the meeting at which the person named in the instrument proposed to vote. No instrument appointing a proxy shall be valid after the expiration of 12 (TWELVE) months from the date of its execution.
- 20.3 A vote given in accordance with the terms of a proxy shall be valid notwithstanding the previous death of the principal or revocation to the proxy, provided that no intimidation in writing of the death or revocation shall have been received by the Directors at any time before a vote is taken in respect of which the proxy exercises such vote.

## **21. VOTING**

- 21.1 At every general meeting:
  - 21.1.1 Every member in person or by proxy and entitled to vote, shall have 1 (ONE) vote for each stand registered in his name.
- 21.2 Save as expressly provided for in these Articles, no person other than a member duly registered and who shall have paid every levy and other sum, if any, which shall be due and payable to the Association in respect of or arising out of his membership, and who is not under suspension, shall be entitled to be present or to vote on any question, either personally or by proxy, at any general meeting.
- 21.3 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by the chairperson or members referred to in Section 63(7) of the Act, and, unless a poll is so demanded, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or by a particular majority or negated, and an entry to that effect in the book containing the minutes of the proceedings of the Association, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution. The demand for a poll may be withdrawn.
- 21.4 If a poll is duly demanded, it shall be taken in such a manner as the chairperson directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. A scrutinizer shall be elected to determine the result of the poll.
- 21.5 In case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place, or at which the poll is demanded, shall be entitled to a second or casting vote.
- 21.6 A poll demanded on the election of a chairperson or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairperson of the meeting directs. The demand for a poll shall not prevent the continuation of a meeting for the transaction of any business other than the question upon which the poll has been demanded.
- 21.7 Every resolution and every amended resolution proposed for adoption by a general meeting shall be seconded at the meetings, and if not so seconded, shall be deemed not to have been proposed.
- 21.8 An ordinary resolution (that is a resolution other than a special resolution) or the amendment of an ordinary resolution shall be carried on a single majority of all votes cast. In the case of equality of votes for and against any resolution, the resolution shall be deemed to have been defeated.

21.9 Unless any member present in person or by proxy at a general meeting shall, before closure of the meeting, have objected to any declaration made by the chairperson of the meeting as to the result of any voting at the meeting, whether by show of hand or otherwise, or to the propriety or validity of the procedure at such meeting, such declaration by the chairperson shall be deemed to be a true and correct statement of the voting, and the meeting shall in all respects be deemed to have been properly and validly constituted and conducted and an entry in the minutes to the effect that any motion has been carried or defeated, with or without a record of the number of votes recorded in favour of or against such motion, shall be conclusive evidence of the votes so recorded.

## **22. INSURANCE**

22.1 At the first meeting of the Directors or so soon thereafter as is possible, and annually thereafter, the Directors shall take steps to insure the buildings and all improvements on the access security stands to the full replacement value thereof against:

22.1.1 Fire, lightning and explosion;

22.1.2 Riot, civil commotion, strikes, lock-outs, labour disturbances or malicious persons acting on behalf of or in connection with any political organisation;

22.1.3 Storm, tempest, flood, excluding:

22.1.3.1 Loss or damage caused by a rise in the underground water table or pressures caused thereby;

22.1.3.2 Loss or damage to gates, fences, boundary walls, garden walls and retaining walls;

22.1.3.3 Loss or damage caused by subsidence or land slip;

22.1.4 Earthquake;

22.1.5 Aircraft and other aerial devices or articles dropped there from;

22.1.6 Bursting and overflowing of water tanks, apparatus or pipes;

22.1.7 Impact with any of the said buildings or improvements by any road vehicles, horses or cattle;

22.1.8 Housebreaking or any attempt thereat;

22.1.9 Compensation for loss of occupation or loss of rent in respect of any of the above risks;

22.1.10 Such other perils or damages as the Directors or any First Mortgagee may deem appropriate.

22.2 At the first meeting of the Directors or so soon thereafter as is possible, the Directors shall take steps:

22.2.1 To insure the owners and the Directors and to keep them insured against liability in respect of:

22.2.1.1 Death, bodily injury or illness, or

22.2.1.2 Loss of, or damage to, property;

occurring in connection with the sections or access security stands for a sum of liability of not less than One Million Rand, which sum may be increased from time to time as directed by the owners in general meeting, and

22.2.2 To procure a fidelity guaranteed in terms of which any loss of monies belonging to the Association or for which it is responsible sustained as a result of act(s) of fraud or dishonesty committed by any insured person being any person in the service of the Association and all Directors and persons acting in the capacity of managing agents of the Owners' Association, be made good up to a total sum of liability equal to total levies due and payable over a 6 (SIX) month period, plus the accumulated reserves, which sum may be increased from time to time as directed by the owners in general meeting, and

22.2.3 To procure a cash policy in terms of which there will be made good –

22.2.3.1 Loss of money in the course of business up to and including an amount equivalent to total levies due and payable in one month or such lesser amount as the Directors from time to time may determine,

22.2.3.2 Loss of or damage to any receptacle for which the Association is responsible resulting from the theft

22.3 The owners may by special resolution direct the Directors to insure against such other risks as the owners may determine.

## **23. ACCOUNTS**

23.1 The accounts and books of the Association shall be open to inspection as provided for in terms of the Promotion of Access to Information Act, 2000 (Act No 2 of 2000), the Protection of Personal Information Act, 2013 (Act No 4 of 2013) and the Act.

23.2 Once in each financial year the accounts of the Association shall be examined and the correctness thereof ascertained by auditors. The duties of the auditors shall be regulated in accordance with Chapter 3, Part "C" of the Act.

## **24. SERVICE OF NOTICES**

24.1 Every member's chosen domicilium citandi et executandi address, from here on 'address' (chosen address of service of legal process', notice, and documentation), by default, is the address of any stand situated within the Estate and owned by such member.

24.2 Any notice, inclusive but not limited to notice of change of address by such member must have been:

24.2.1 effected in writing; and

24.2.2 directed to the Estate Managers Office; and

24.2.3 either validly countersigned if delivered by hand, alternatively, acknowledged in writing, by the Estate Manager's Office, whichever applicable to signify acceptance by the HOA of such address change.

24.3 Any change of address will become effective three full weeks post valid delivery of the notice mentioned above.

24.4 The HOA will effect service of any notice or legal document on any member at the above selected address, either personally, or in circumstances where there is undue, unforeseen, or unreasonable delay or impediment, via affixing to the door or leaving in a visible position on the members property so as to bring about the attention of the member in question to the such notice or legal document.

24.5 Service of any notice or legal document by the HOA may be followed with electronic service via any commonly used electronic medium, including but not limited to electronic mail, electronic message (inclusive of SMS and MMS), Facebook message, WhatsApp message. The process as to changing a member's cellular phone number or electronic mail address is identical to the process set out in Article 24.2. and 24.3.

24.6 Notice, if not countersigned to signify acceptance, will be deemed delivered and accepted, in the alternate acknowledged:

24.6.1 three days after affixing, positioning, or such related measure has been utilised;

24.6.2 in the event of electronic service, the following day.

24.7 Service on the HOA of any notice or legal document is to be effected on the Estate Managers Office, stand XXXX, while electronic service is to be effected on such Offices electronic mail: estatemanager@irenefarmvillages.co.za.

24.8 Except where set out above, the HOA must expressly and in writing agree to receive service of any court process via electronic means from any Attorney or Trust-Account-Bearing Advocate representing a member or such members' interests.

## **25. INDEMNITY**

25.1 Every Director, servant, agent and employee of the Association and any managing agent, his employees, nominees or invitees, shall be indemnified by the Association against all costs, losses and expenses (including traveling expenses) which such person or persons may incur or become liable for by reason of any contract entered into or any act or deed done by such person or persons in the discharge of their respective duties, including in the case of a Director, his duties as a chairperson or vice-chairperson. Without prejudice to the generality of the afore-going, the Association shall specifically indemnify every such person against all losses of whatsoever nature incurred arising out of a *bona fide* act, deed or letter done or written by him jointly or severally in connection with the discharge of his duties.

## **26. GENERAL**

26.1 Whenever they consider that any of the then current national building regulation and/or the requirements of the Design Review Panel are being contravened by any member or members, the Directors may serve notice on such member or members to take such steps as may be specified in the notice to remedy such contravention. In the event of the member or members failing within a reasonable time (to be specified in such notice) to comply therewith, the Directors may enter upon the property concerned and take steps as may be necessary, and recover the costs thereof from the member or members concerned, which costs shall be deemed to be a debt owing to the Association.

26.2 The Directors shall be obliged in giving such notice to act reasonably.

26.3 The Association may enter into agreements with members for the provision of amenities and services to the members and to levy a reasonable charge in respect of the provisions thereof.

26.4 In the event of the Association electing to provide security and/or other services for members in the township, all members shall be obliged:

- 26.4.1 To permit the installation of any equipment on the stand for the purpose of such service as may be determined by the Association from time to time;
  - 26.4.2 To make payment of the charges raised by the Association in respect of such services; and
  - 26.4.3 Abide by such terms and conditions for the provision of such services as may be laid down by the Association from time to time.
- 26.5 No member shall transfer his stand until the Board of Directors under the hand of one of its servants has certified that the member has, at date of transfer, fulfilled all his financial obligations to the Association. No stand or any interest therein shall be alienated without the consent of the Association. Such consent shall not be withheld unless:
- 26.5.1 Such member is indebted to the Association in any way in respect of levies or other amounts which the Association may in terms of these presents be entitled to claim from him;
  - 26.5.2 The proposed transferee has agreed to become a member of the Association and be bound by these presents.
- 26.6 The Directors in issuing the certificate referred to in Article 26.5 above, shall be entitled to charge a reasonable fee therefor to be determined by the Directors from time to time subject to review by the Association in General Meeting.
- 26.7 The provisions of these Articles shall be binding upon all members and, insofar as they may be applicable to all persons occupying any stand by, through or under any member, whatever the nature of such right of occupation.
- 26.8 The Directors may delegate such of their powers to a managing agent as they may determine subject to any restrictions imposed or direction given at any general meeting of the Association.
- 26.9 It is recorded that this Memorandum of Incorporation incorporates all decisions taken by the Irene Farm Villages Home Owners Association NPC members and that the necessary efforts and actions were taken to ensure compliance hereto. Should any decision or the effect thereof be omitted from this Memorandum of Incorporation it is recorded that such an omission is unintentional and in good faith.
- 26.10 It is recorded that this Memorandum of Incorporation incorporates all decisions taken by the Irene Farm Villages Home Owners Association NPC members and that the necessary efforts and actions were taken to ensure compliance hereto. Should any decision or the effect thereof be omitted from this Memorandum of Incorporation it is recorded that such an omission is unintentional and in good faith.