



# **ROYAL ALFRED MARINA HOMEOWNERS' ASSOCIATION**

## **Constitution**

## **Rules and Regulations**

## **Design Manual**

**1. NAME: (23/12/2013)**

The name of the association is:

THE ROYAL ALFRED MARINA HOMEOWNERS' ASSOCIATION, which is a Body corporate duly constituted in terms of Section 29 of Ordinance 15 of 1985.

**2. DEFINITIONS: (21/12/2009)**

In this Constitution unless the context indicates the contrary:

- 2.1 **“Association”** shall mean The Royal Alfred Marina Homeowners' Association.
- 2.2 **“the Township Area”** shall mean that portion of Erf 3934 as depicted yellow on Annexure “X” hereto.
- 2.3 **“person”** shall include a company, close corporation, partnership, trust or other association of persons entitled by law to hold title to immovable property.
- 2.4 **“member”** shall mean a member as defined in Clause 5 hereof.
- 2.5 **“lessee”** shall mean any person having a lease on any property in the Township Area.
- 2.6 **“resident member”** shall mean a resident member as defined in Clause 7.2.1.3 hereof.
- 2.7 words importing the singular shall include the plural and the converse shall also apply; the masculine gender shall include the feminine and neuter shall include the masculine and feminine genders.

**3. HEADNOTES:**

The headnotes to the clauses in this Constitution are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.

**4. OBJECTS AND POWERS OF THE ASSOCIATION:**

The objects and powers of the Association are:

- 4.1 (21/12/93)  
To do all things necessary or incidental to the proper maintenance and management of the Township Area; but without derogating from the generality of the foregoing shall have as its objectives and powers.
- 4.2 The promotion and enforcement of standards for community living in the Township Area in such a way that members may derive the maximum collective benefit therefrom.
- 4.3 The promotion of acceptable aesthetic, environmental and architectural styles and design criteria for the Township Area in order to achieve harmonious development thereof and to control the design and development of all properties therein.
- 4.4 (23/12/96)  
The management and maintenance in good and clean order and condition:
  - 4.4.1 Within the Township Area of all water, storm water, sewerage and electrical installations, of all tarred roads, bridges, parks, all the canals, river banks, the dredging of the canals, and the compliance with all environmental requirements.

- 4.4.2 Within the Township Area the maintenance of the swimming pool, squash and tennis courts and any other facilities and amenities, as well as for the ongoing security of the Township Area; and to this end to employ at its cost a full time manager and the Association shall have the powers to do such acts as are necessary to accomplish these objects including the raising of subscriptions or levies from members.
- 4.5 The control over and maintenance of buildings, services and amenities within the Township Area.
- 4.6 (21/12/93)  
The option to dredge the Kowie River from the Nico Malan Bridge to its mouth; subject to the majority of the Association members present at the Annual General Meeting deciding to do so.
- 4.7 (19/12/16)  
To promote, preserve and uphold the vision of the Royal Alfred Marina as an upmarket and desirable residential estate. To comply with the standards that ensure the viability and value of the estate and enhance the image, status and unique lifestyle of the Royal Alfred Marina.

## **5. MEMBERS:**

- 5.1 The Association shall initially be organized without capital and membership thereof shall be evidenced by registered ownership in the Deeds Registry in King William's Town (eQonce) of one or more erven in the Township Area. Upon registrations of ownership, membership of the Association shall be automatic and members shall be obliged to comply with the provisions of this Constitution. No person shall be entitled to cease to be a member of the Association while remaining the registered owner of an erf in the Township Area.
- 5.2 (23/12/96)  
Each member shall be entitled to one vote for each erf, "as per the original lay-out plan of the Township Area." Ownership of an erf in shares shall constitute only one membership, which membership shall be represented by one individual in terms of the provisions of Clause 10.10 hereof.
- 5.3 Membership shall be transferred by the registration of a deed of transfer in the Deeds Registry at King William's Town, passing transfer of one or more erven in the Township Area from the previous member to the new member.
- 5.4 Levy: (18/12/2014)**  
Every member shall pay an annual subscription or levy to the Association, the amount of which shall be determined by a majority decision of members taken at an Annual General Meeting. The subscription or levy so determined shall be payable in respect of each erf depicted on either General Plan No. 12363 dated 13 February 1989 relating to Erf 4335 Port Alfred or General Plan No. 12388 dated 17 March 1989 relating to Erf 3934 Port Alfred, both of which General Plans are registered in the Deeds Registry in Cape Town (now in King William's Town) and shall apply equally to all erven other than common property, roads and canals. In the case of consolidated erven, the subscription or levy shall be subject to a reduction of 50% for each additional erf after the first, comprising the consolidated erf as provided in Clause 5.6.

Undeveloped erven which are contiguous to one another shall, for the purpose of this clause and of clause 5.6, be deemed to be consolidated and shall be entitled to a 50% reduction in levies for each additional erf after the first whether or not they are in fact consolidated.

5.5 (19/12/12)

Should any owner let any erf owned by him to a lessee, then such owner accepts responsibility to ensure that such lessee complies with the Constitution and the Association's Rules and Regulations.

5.6 (21/12/2009)

Where an erf, or erven, originally purchased, is/are consolidated then the original Purchaser and his Successors in Title shall be obliged to pay the normal subscriptions or levies on one of the original erven making up the consolidated property and the owner shall be entitled to receive a 50% reduction in the levy of additional erven of the consolidated property. The owner shall be entitled to one vote for each original erf of which the consolidated property is comprised.

5.7 (23/12/2013)

Additional to the amount payable in terms of Clause 5.4, every member shall pay any Special Levy duly approved by members at a General Meeting. Unless specifically stipulated to the contrary, such Special Levy shall be payable by every member who was a member on the date of the General Meeting at which the Special Levy was approved and shall be payable in respect of each erf as shown on the registered General Plan for the Township Area and shall apply equally to all erven but in the case of consolidated erven, the Special Levy shall be subject to a reduction of 50% for each additional erf after the first, comprising the consolidated erf as provided in Clause 5.6.

5.8 (21/12/93)

Any amendment to Clause 5.6 of the Constitution must be ratified by not less than 75% of the members present and entitled to vote at any Annual General Meeting or Ordinary General Meeting.

5.9 (23/12/96)

Each member shall be restricted to erect only one dwelling house on each registered or consolidated erf in the Township Area.

5.10 (21/12/2009 - formerly Clause 7.5.2.12)

All conditions as laid out in the Title Deeds in the Township Area shall be adhered to by members. In particular, attention is drawn to clause B15 in that the owner of a property shall be solely responsible for the maintenance of the canal banks abutting his property and he shall not be entitled to carry out any alterations to the canal banks (either structural or otherwise) without written consent.

**6. COMMITTEE:**

The powers of the Association, other than those to be exercised by the members in general meeting, shall be exercised by the following two committees namely:

6.1 The Executive Committee (Excom); and

6.2 The Royal Alfred Marina Architectural Committee (Archcom).

**7. EXECUTIVE COMMITTEE:**

**7.1 Composition:**

7.1.1 (19/12/16)

Excom shall consist of not less than 5 (five), and not more than 7 (seven) persons. With the exception mentioned in Clause 7.5.2.10 hereunder, all such persons shall be members of RAMHOA, of whom at least 4 (four) shall be resident members.

7.1.2 (23/12/93)

Any Excom member shall be eligible for re-election.

**7.2 Election at Annual General Meetings:**

7.2.1 (22/12/94)

The Excom members shall be elected annually at the Annual General Meeting and shall, subject to the provisions herein contained remain in office until the following Annual General Meeting. If more candidates are nominated than there are vacancies, a ballot shall be held amongst those members present to determine which members shall form the Excom. No proxy votes shall be permitted for purposes of electing these members.

7.2.1.1 (21/12/93)

Only a member who is not delinquent in terms of Clause 12.5 or the spouse of a non-delinquent member, shall be eligible for election to Excom.

7.2.1.2 (21/12/2009)

A “member” shall be the registered owner of property within the Township Area or the spouse of such registered owner, or the authorised representative (in terms of Clause 10.10).

7.2.1.3 (21/12/2009)

A “resident member” shall be a member or spouse of such member, or the authorised representative (in terms of Clause 10.10) who resides permanently in the Township Area provided that any member or spouse, or authorised representative who resides for not less than 6 (six) months in a current year in the Township Area shall be deemed to be a resident member or spouse of such resident member.

7.2.2 (18/12/2014)

Nominations of candidates for election to Excom at any Annual General Meeting shall be in writing, signed by two members and accompanied by the written consent of the candidate nominated and shall be lodged at the office of the Marina Manager not later than 14 (fourteen) days before the date of the meeting.

7.2.3 (21/12/2021)

Excom members may fill any vacancy in their number or co-opt any additional member, provided that the number of Excom members shall not exceed 7 (seven). Any Excom member so appointed or co-opted shall hold office until the next Annual General Meeting when he shall retire and be eligible for re-election as though he had been elected at the previous Annual General Meeting.

**7.3 Vacation of Office: (21/12/2009)**

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

7.3.1 By notice in writing to Excom he resigns his office.

7.3.2 He is or becomes of unsound mind.

7.3.3 He surrenders his estate as insolvent or his estate is sequestrated.

7.3.4 He is convicted of an offence which involves dishonesty.

7.3.5 He absents himself from three consecutive meetings of Excom without leave of absence from Excom.

7.3.6 (19/12/16)

By resolution of a General Meeting of the Association he is removed from office or by a resolution of Excom agreed to by a 75% majority.

7.3.7 He ceased to be a member or his subscription becomes delinquent in terms of Clause 12.5.

**7.4 Excom Meetings and Procedures thereat:**

7.4.1 (21/12/2009)

Excom shall meet at such time and place as shall be decided by Excom from time to time, provided that it shall meet within 14 (fourteen) days of an Annual General Meeting. It shall not be necessary to give notice of a meeting to any Excom member who is for the time being absent from the Republic. Special meetings may be called by the Chairman or in his absence the Vice Chairman.

7.4.2 (21/12/93)

Any Excom member may at any time convene a meeting of Excom by giving to the other Excom members no less than 10 (ten) days written notice and facsimile notice of the proposed meeting which notice shall specify the reason for calling such a meeting; provided that in cases of emergency such shorter notice as is reasonable in the circumstances may be given.

7.4.3 (21/12/2009)

The quorum at any meeting of Excom shall consist of one half (50%) of the number of members elected in terms of Clause 7.2.1 and/or co-opted in terms of Clause 7.5.2.10, all of whom shall be members of RAMHOA, plus one more member of Excom. If at any meeting a quorum is not present within ten minutes of the appointed time of the meeting, such meeting shall stand adjourned to the same day of the following week at the same time.

- 7.4.4 If the number of Excom members falls below the number necessary to form a quorum, the remaining members may continue to act but only for the purpose of convening a General Meeting of members.
- 7.4.5 Excom shall keep a minute of meetings held and decisions taken, the said minute shall be tabled at the next meeting and Excom shall make a full annual report at the Annual General Meeting.
- 7.4.6 (21/12/2021)  
At the commencement of the first meeting of Excom members after each Financial Year End, Excom shall elect a Chairman and Vice Chairman who shall be ipso facto Chairman and Vice Chairman of the Association. The Chairman and Vice Chairman so elected shall hold office as such until the end of the ensuing Financial Year End. If the Chairman vacates his office or is removed therefrom by members at a General Meeting, then the Vice Chairman shall automatically become Chairman and he shall hold office for the remaining period in respect of which the first mentioned Chairman was elected. Excom shall elect a new Vice Chairman at the meeting following immediately upon the vacation of office by the former Chairman.
- 7.4.7 All matters at any meeting of Excom shall be determined by a majority of those present and voting. In the event of an equality of votes, the Chairman of any meeting shall have a casting as well as a deliberative vote.
- 7.4.8 Excom may from time to time appoint a Secretary and a Treasurer, or a Secretary/Treasurer, who shall hold office until the end of the next Annual General Meeting. Should the Secretary or Treasurer not be an elected member of Excom, he shall have no vote at meetings.
- 7.4.9 (21/12/2009)  
All meetings of Excom shall be held at Port Alfred.

## **7.5 Powers:**

- 7.5.1 (22/12/94)  
The day-to-day business of the Association shall be managed by Excom, which may exercise all such powers of the Association as are not by law, or by the provisions of this Constitution required to be exercised by the Association in General Meeting or by Archcom.
- 7.5.1.1 (22/12/94)  
Excom shall exercise such powers subject to this Constitution, to the provisions of the law, and to such directions contained, directly or by implication, in the budget of the Association, as may be prescribed by the association in General Meeting, but a direction prescribed by the Association in General Meeting shall not invalidate any prior act of Excom which would have been valid if such direction had not been prescribed.

7.5.1.2 (21/12/2021)

Excom shall be entitled to make an interim/provisional increase in levies of not more than 6 (six) percent to meet operational requirements and to implement such increase from the beginning of the financial year.

7.5.2 (22/12/94)

Without detracting from the generality of the foregoing, the powers of Excom shall include and/or be limited to the following:

7.5.2.1 (22/12/94)

The determination of what constitutes appropriate standards for community living and the maintenance of properties in the Township Area.

7.5.2.2 (22/12/94)

The investment and re-investment of monies of the Association not immediately required, in such manner as may from time to time be determined.

7.5.2.3 (22/12/94)

The operation of a banking account with all powers required by such operations.

7.5.2.4 (22/12/94)

The making of, entering into and carrying out the contracts or agreements for any of the purposes of the Association. All decisions regarding any contract involving the transfer, purchase, sale, alienation in any form, mortgage or pledge of immovable property must be taken by a General Meeting. Excom will have the power and authorisation to give effect to such decision.

7.5.2.5 (22/12/94)

The employment and payment of agents, servants and other parties.

7.5.2.6 (22/12/94)

The making of internal "house rules" which rules shall be binding on members and which "house rules" must be ratified by a General Meeting.

7.5.2.7 (22/12/94)

The formation of sub-committees and the delegation of such powers to such sub-committees as Excom may deem necessary.

7.5.2.8 (22/12/94)

The right to sue and defend actions in the name of the Association and to appoint legal representatives for this purpose.



7.5.2.9 (22/12/94)

The considering of appeals from members of the Association regarding decisions of Archcom.

7.5.2.10 (21/12/2021)

The co-option of additional members at its discretion from time to time, provided that the total number of elected and co-opted members shall together not exceed 7 (seven).

7.5.2.11 (21/12/2009)

The right to remove any jetty for a limited period where free and unrestricted use of a canal is required and providing that Excom shall ensure that such jetty is replaced undamaged and at its expense and providing 14 (fourteen) days prior written notice of intention to remove be given to the owner of such property.

7.5.2.12 (20/12/2022)

To impose a fine for any transgression of the rules including but not limited to any request by Archcom in terms of rule 8.4.7.

**7.6 Remuneration: (21/12/93)**

Excom members shall not be entitled to be repaid any expenses.

**7.7 Indemnity:**

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

7.8 (22/12/94)

Excom may not change, amend or in any way alter a decision made by a General Meeting. All decisions made by the General Meeting will be binding on Excom.

**8. THE ARCHITECTURAL AND ENVIRONMENTAL COMMITTEE:**

**8.1 Composition: (19/12/16)**

Archcom shall consist of at least 4 (four) members and shall comprise of the following:

8.1.1 A member of Excom, who shall not be the Chairman of Excom.

8.1.2 Two architects or other suitably qualified persons, appointed by Excom.

8.1.3 A member of RAMHOA, who may not necessarily be a member of Excom, appointed by Excom.

**8.2 Term of Office:**

Archcom appointed members pursuant to 8.1.1 and 8.1.3 shall hold office for a period of two years reckoned from date of appointment. The persons appointed pursuant to 8.1.2 shall be appointed for a period of one year only.

A new member appointed by Excom to replace a member who has vacated office shall only serve such member's unexpired term.

### **8.3 Meetings and Procedures thereat:**

- 8.3.1 Archcom shall meet from time to time as it may deem necessary, primarily to perform its duties as set out herein. Archcom shall keep and maintain a record of all actions or decisions taken by it at all meetings and without in any way limiting the generality of the foregoing, the passing of plans, the giving of waivers and the reasons thereof shall all be expressly noted in the minutes and copies of all plans passed shall be retained. The member appointed pursuant to 8.1.1 shall carry out the duties of Secretary of Archcom.
- 8.3.2 The minutes of Archcom meetings shall be tabled at the next Excom meeting unless this falls within one week of the Archcom meeting in which event the minutes may be tabled at the following Excom meeting.
- 8.3.3 The person appointed pursuant to 8.1.3 may be the Chairman of Archcom.
- 8.3.4 Two members shall constitute a quorum one of whom must be Chairman.
- 8.3.5 All matters shall be determined by a majority of votes of those present and in the event of there being an equality of votes, the matter shall be referred for a decision to the next meeting of Archcom, which shall be held within 30 days.
- 8.3.6 The provisions of Clause 7.3 shall apply mutatis mutandis to Archcom members, but in addition an Archcom member may be removed from office by a majority vote of Excom taken at a meeting of Excom called specifically for such purpose of which notice shall be given in the notice convening the meeting. The person appointed pursuant to 8.1.2 shall not be required to comply with 7.3.7 unless he is a member.
- 8.3.7 An Archcom member may at any time convene a meeting of Archcom by giving other Archcom members no less than 10 (ten) days written notice of a meeting proposed by him which notice shall specify the reason for calling such a meeting; provided that in the case of urgency such shorter notice as is reasonable in the circumstances may be given. It shall not be necessary to give notice of a meeting to any Archcom member who is for the time being absent from the Republic.

### **8.4 Powers:**

Archcom shall have the following powers:

- 8.4.1 To prescribe the architectural style and the design criteria of, and the materials to be used for all buildings erected or to be erected in the Township Area and in particular, to control the design of the exterior of such buildings and the materials and colours used on such exteriors, to ensure an attractive, aesthetic, pleasant and consistent character to the buildings in the Township Area.
- 8.4.2 To prescribe design criteria of and the materials to be used in other site works in the Township Area including but not limited to, canal and waterfront walls, fences, pergolas, boundary walls, paved pathways, swimming pools, hard landscaping and the like.
- 8.4.3 To attain the objects set out above by adopting and applying the aims and concepts as set out in the Royal Alfred Marina Design Regulations.

- 8.4.4 To do such acts as are necessary to accomplish the purposed expressed or implied herein. Which acts shall include, inter alia:
- 8.4.4.1 The examination and approval or refusal of building plans for all or any of the items mentioned in paragraphs 8.4.1, 8.4.2, and 8.4.3 above whether in respect of new constructions, renovations, alterations, or additions to existing buildings and the charging of a fee therefore, which will accrue to the Association.
  - 8.4.4.2 The making of, entering into and carrying out of contracts or agreements for any of the purposes herein contained.
- 8.4.5 To prescribe standards to ensure that all properties, gardens and buildings on properties are kept in a good, tidy, clean, well painted condition and that all properties are stabilized to prevent movement of windblown sand.
- 8.4.6 To control the construction and maintenance of water-fronts and bank edges to the properties in the Township Area, as well as the jetties, piers or any other structures in the water area, including their design and the materials used in the constructions thereof, either within or adjacent to the boundaries of such properties.
- 8.4.7 To advise Excom to compel members to comply with the requirements laid down pursuant to sub-clauses 8.4.1, 8.4.2, 8.4.3, 8.4.5 and 8.4.6 above, and in particular to comply with the building plans as approved by Archcom and the Local Authority and failing compliance therewith Excom shall be empowered to take steps to remedy such non-compliance at the cost of the member; and without in any way limiting the generality of the foregoing to call upon a member in writing to remove or alter within a specified period anything erected contrary to the requirements laid down pursuant thereto, and failing which to require Excom to apply to Court on behalf of and in the name of the Association for an appropriate order.

**8.5 Compensation:**

The architect or other suitably qualified person appointed in terms 8.1.2 shall be remunerated by the Association for his services.

**8.6 Indemnity:**

Neither Archcom nor any of its members shall be liable for any damage, loss or prejudice suffered, or claimed, on account of any decision or action taken by Archcom, provided that Archcom and its members have, upon the basis of information known to them or which should reasonably have been known to them, acted in good faith.

**8.7 Recusation:**

Any member of Archcom who has an interest in the outcome of the decision made by Archcom pursuant to the requirements of Clause 8.4.4 shall recuse himself from the meeting at which the decision is made and shall not be entitled to vote on such decision. If two or more members recuse themselves then the matter in question shall be referred to Excom for decision.

**8.8 Precedents and Amendments to the Design Manual and Design Regulations:**

- 8.8.1 No approval or the like granted by Archcom shall be considered to be a precedent for any future applications for approval by another member.
- 8.8.2 (20/12/2022) Archcom shall be entitled to repeal, amend or add to (collectively referred to as “amend”) the Design Manual or the Design Regulations, Annexures “A”, “B” hereto. Any such amendment shall however be of no force and effect unless and until it has been approved by not less than 75% of the members of Excom.

**8.9 Right of Appeal:**

Any member who has submitted plans to Archcom for consideration and approval as required in terms of Clause 9, or any person affected by Archcom’s decision in connection therewith, shall be entitled to appeal to Excom against the decision of Archcom. The member shall lodge a notice of appeal which shall:

- 8.9.1 Be in writing and shall be lodged with the Chairman of Excom within 30 days of such member having been notified of the decision, and
- 8.9.2 Set out full and precise details of the decision, or part thereof, that is being appealed against, and
- 8.9.3 Set out fully the grounds of his appeal and the relief that he is asking for Excom shall be entitled at its absolute discretion to determine the procedure to be followed by it in hearing the appeal and the amount of any fee and monetary deposit to be paid by the member on the submission of the appeal. It shall not be necessary for Excom to observe the strict rules of evidence or the usual formalities or procedures when hearing the appeal nor shall Excom be obliged to give any reasons for its decision on the appeal.

**9. SUBMISSION OF PLANS:**

A member shall be obliged to submit detailed plans in accordance with the design manual, whether such plans are for new construction, renovations, alterations or additions, to Archcom for examination and approval pursuant to the provisions and powers conferred on it by Clause 8.4 and to obtain such approval prior to obtaining the approval of such plans from the Port Alfred Municipality, or other statutory body or authority, whose duty it is to approve such plans.

**10. MEETINGS OF THE ASSOCIATION:**

10.1 (21/12/93)

Annual General Meetings of members shall be held once in every year at Port Alfred and at such time and place as may be determined by Excom, but so that no more than 15 (fifteen) months shall be allowed to elapse between any two such successive meetings. The business to be done at the Annual General Meeting shall include:

- 10.1.1 The receipt of a report on the affairs of the Association.
- 10.1.2 The election of members to Excom.
- 10.1.3 The adoption of the minutes of the previous Annual General Meeting.
- 10.1.4 The adoption of the audited balance sheet and accounts.

10.1.5 The consideration of any resolutions concerning the affairs of the Association of which due notice has been given.

10.1.6 The determination of the monthly subscription or levy to be charged out against all property owners of the Royal Alfred Marina or members of the Association to give proper effect to the carrying out of the objects of the Association for the ensuing year as is more fully referred to in Clause 12 hereunder.

10.1.7 (22/12/94)

Any decisions regarding contracts involving the transfer, purchase, sale, alienation in any form, mortgage or pledge of immovable property.

10.1.8 10.1.8 (22/12/94)

Any other business.

**10.2 Ordinary General Meetings:**

Excom may call an Ordinary General Meeting of members whenever it thinks fit. Ordinary General Meetings shall also be called upon the written request of not less than 25 (twenty five) members, directed to the Chairman of Excom.

**10.3 Notice of Meeting:**

An Annual General Meeting shall be convened on not less than 21(twenty-one) days' notice in writing. An Ordinary General Meeting shall be called by not less than 14 (fourteen) days' notice in writing. The notice shall be inclusive of the day on which it is given and shall specify the place, the day, and the hour of the meeting and the agenda for such meeting; provided that any meeting shall, notwithstanding that it is called by shorter notice than specified, be deemed to have been called if it is so agreed by ninety per cent of the members present.

10.3.1 (21/12/2021)

All meetings shall also be held as virtual meetings and each member shall be invited to attend such meeting by the Marina Manager who will also send the login details to each member.

**10.4 Validity of the Meeting:**

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

**10.5 Quorum: (21/12/2021)**

No matters shall be discussed at any General Meeting unless a quorum is present when the meeting commences. For all purposes, the quorum shall be members present in person or by proxy or online as part of a virtual meeting (provided that such members have advised that they will be participating as members "virtually") being not less than 40 (forty) or half the total number of members whichever shall be the lesser.

**10.6 Adjournment: (21/12/2009)**

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

**10.7 Chairman:**

The Chairman and failing him, the Vice Chairman, of Excom shall preside at every General Meeting, but if there is no such Chairman or Vice Chairman, the members present shall choose a Chairman from the members of Excom, or if no such members are present, they shall choose some member present to be Chairman of the meeting.

**10.8 Votes (21/12/2021)**

At all General Meetings resolutions put to the vote, save for resolutions for the election of a member to any committee or his removal therefrom which shall be decided by ballot, shall take place by show of hands unless by majority vote the meeting decided that voting shall be by ballot, in which event the ballot shall take place immediately. Voting whether by show of hands or by ballot, shall take place in accordance with the following provisions (where reference is made to members being present in person it shall, for the purposes of section 10.8 include members registered to attend “virtually”):

10.8.1 Each member present in person shall have one vote for every erf registered in his name.

10.8.2 (21/12/2009)

Each member present as proxy for a member shall have one vote for each erf registered in the name of the member for whom he is proxy.

10.8.3 Each member and person present as proxy for a member shall indicate clearly how he casts each vote to which he is entitled as aforesaid.

10.8.4 (21/12/2009)

All resolutions shall, except as otherwise provided herein, be decided by simple majority of those members present in person or proxy at the meeting and voting.

10.8.5 (21/12/2009)

The Chairman of the meeting shall count the votes cast for and against the resolution and shall declare it carried or lost as the case may be.

10.8.6 A declaration by the Chairman of the result of the voting by show of hands or ballot and the entry thereof in the minute book of the Association shall be conclusive evidence of that fact.

**10.9 Incapacity:**

Should any member be declared incapable of managing his own affairs, or a prodigal, or insolvent, or in the case of a company placed under judicial management, or into liquidation, such member may be represented by his Curator Bonis, trustee, judicial manager or liquidator as the case may be, who shall be entitled to vote on his behalf either personally or as proxy.

**10.10 Companies, Close Corporations, Trusts and Co-ownership: (21/12/93)**

(21/12/2009)

Any company, Close Corporation, Trust or Co-owners of property who are members of the Association may, by resolution of its Directors, Members, Trustees or Co-owners, authorise such persons as it/they think fit to act as its/their representative at any meeting of the Association and the person so authorised shall be entitled to exercise the same powers on behalf of the Company, Close Corporation, Trust or Co-owners which he represents as that Company, Close Corporation, Trust or Co-owners could exercise if it/they were an individual member of the Association. Such authorisation shall be in writing, shall be accompanied by copies of the necessary supporting resolution and shall be lodged with the Chairman of the meeting prior to the meeting's commencement.

**10.11 Proxy:**

10.11.1 (21/12/2009)

Votes may be given either personally or by proxy provided that only a registered owner of an erf or the authorised representative (in terms of Clause 10.10) may be appointed as a proxy.

10.11.2 The instrument appointing a proxy shall be in writing in the common form, or any form approved by Excom under the hand of the appointer, or of his attorney duly authorised in writing, or if such appointer is a company, under the hand of an officer duly authorised in that behalf.

10.11.3 The instrument appointing a proxy, together with the Resolution (if any) authorizing the signatory to it or a notarially certified copy thereof shall be lodged at the office of the Marina Manager not later than 3 (three) days before the date of the meeting, failing which the person nominated as proxy shall not be entitled to vote in respect thereof.

**10.12 Resolutions by a Member(s):**

(18/12/2014)

Resolutions by a member, which he wishes to be considered at a General Meeting, must be in writing and must be received by the Marina Manager as follows:

10.12.1 If the resolution would change the Constitution or the Design Manual and Regulations such resolution must be received on or before 60 (sixty) days preceding such General Meeting.

10.12.2 Any other resolutions must be lodged with the Marina Manager not later than 30 (thirty) days before the date of the General meeting.

## **11. THE STATUS OF THE ASSOCIATION:**

(23/12/2013)

The Association shall be a body corporate duly constituted in terms of Section 29 of Ordinance 15 of 1985:

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

11.2 (22/12/94)

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

11.3 not for profit, but for the benefit of the owners and occupants of immovable property situate in the Township Area; and

11.4 with the right to acquire hold and alienate property, both movable and immovable.

## **12. ANNUAL SUBSCRIPTION OR LEVIES:**

12.1 (21/12/93)

The Association, through Excom, shall be entitled to impose and collect an annual subscription or levy to defray the costs of managing and administering the Association, and managing and maintaining the area and items referred to in Clause 4.4 above.

12.2 (21/12/93)

The annual subscription or levy shall be determined at the Annual General Meeting in terms of Clause 10.1.6 above.

12.3 (19/12/16)

Subscriptions or levies shall be payable quarterly in advance on the 1st October, 1st January, 1st April and 1st July in each and every year and shall be payable on the dates aforementioned notwithstanding that an account for payment has not been received by a member from the Association.

12.4 (23/12/2013)

Should a member not pay his subscription or levy on due date then he shall, in addition, be liable for and shall pay:

12.4.1 Interest on the amount due reckoned from the due date of payment as provided for in Clause 12.3 above until date of payment both dates inclusive, at the maximum rate permitted by the Limitation and Disclosure of Finance Charges Act, as amended.

12.4.2 All legal costs of whatsoever nature and collection commission chargeable including any attorney and client costs.

12.4.3 An administration fee determined by Excom from time to time.

12.5 (23/12/2013)

Where a Company, Close Corporation or Trust is a member of the Association, the Association shall be entitled to require each or, at its discretion, some of the Directors, Members or Trustees to sign personal suretyships guaranteeing the obligations of such Company, Close Corporation or Trust to pay the subscription or levy.



12.6 (23/12/2013)

Where a person becomes a member of the Association during the course of a financial year then the amount of the subscription or levy payable by such a member shall be determined on a pro rata basis reckoned from the date upon which he became a registered property owner.

12.7 (23/12/2013)

If a member does not pay the subscription or levy due by him on due date as provided for in Clause 12.3 above, then such subscription or levy shall become delinquent and the Association may institute immediate legal proceedings against the member for the recovery hereof.

12.8 (23/12/2013)

Any proceedings at law which the Association may desire to institute in respect of subscriptions or levies may, at the sole option of the Association, be instituted in any Magistrate's Court with jurisdiction, to which jurisdiction each and every member of the Association hereby consents in terms of Section 45 of the Magistrate's Court Act, Act No 32 of 1944, as amended.

12.9 (23/12/2013)

A member whose payments on account of the annual subscription or levy are delinquent shall not be entitled to:

12.9.1 Vote at any Annual General Meeting.

12.9.2 Nominate candidates for election to Excom.

12.9.3 Serve on Excom or Archcom, whilst any payment is delinquent.

12.10 (23/12/2013)

Each member must, prior to transferring his property into a new owner's name, pay to the Association all the outstanding levies, interest, administration or any other costs of whatsoever nature.

**13. ACCOUNTS:**

13.1 Excom shall cause proper books of accounts of the administration and finance of the Association to be kept at the domicilium of the Association or such other place or places as it may think fit.

13.2 (21/12/93)

Excom shall cause to be laid before the Association in Annual General Meeting, books of account, audited balance sheets and reports of the Association.

**14. DOMICILIUM:**

14.1 For all purposes arising out of this agreement including the giving of notices and the serving of legal process, the Association and each member chooses domicilium citandi et executandi as follows:

14.1.1 Royal Alfred Marina Homeowners' Association,  
c/o Royal Alfred Marina Administration Office, Albany Road, Port Alfred,  
P O Box 2071, Port Alfred.

14.1.2 (21/12/93)

Each member at the erf or erven in the Township Area, of which such owner is the registered owner.

14.2 (21/12/93)

Any notice which may be required to be given in terms of this Constitution may be given by the dispatch of such notice in writing by prepaid registered post in which event such notice shall be deemed to have been received 10 (ten) days after the posting thereof from any Post Office within the Republic of South Africa.

**15. WINDING UP:**

The Association may be wound up only in the following circumstances:

- 15.1 by a resolution of 90% of the persons present or represented at a General Meeting; together with
- 15.2 the consent of the Municipality of Port Alfred in writing; and
- 15.3 a supporting order or winding up on good cause shown, granted by the Eastern Cape Division of the Supreme Court in Grahamstown.

In the event of such winding up, it shall be the duty of Excom, or a Receiver to be appointed by it, to convert the Association's assets into cash to all the liabilities of the Association and thereafter distribute the rest to the members in accordance with the number of erven registered in the name of each member. If, within a period of 4 (four) months from such distribution, Excom or the Receiver is unable to find, locate or trace any member, such member's share shall then be paid into the Guardian's of the Master of the Supreme Court at Grahamstown, failing which to the attorneys of the Association, to be held in trust by them.

**16. AMENDMENTS TO THE CONSTITUTION: (21/12/2021)**

Section 29 (2) (b) read with Section 29 (2) (c) of the Land Use Planning Ordinance No. 15 of 1985, as amended, provides that a Homeowners' Association shall have a Constitution which has as its object the control over and maintenance of buildings, services and amenities arising from the sub-division concerned and that it shall have as its members the owners of land units arising from the sub-division concerned, who shall be jointly liable for expenditure incurred in connection with the Association and in order to ensure that these provisions are complied with the Constitution shall not, insofar as the abovementioned provisions are concerned, be amended save with the consent of the Port Alfred Municipality, which consent shall not be unreasonably withheld. Such consent shall be deemed to have been granted if no objection to the proposed amendments are received within 60 (sixty) days of the proposals being handed in to the Municipal Manager.

**17. NON-LIABILITY OF MEMBERS:**

No member of the Association shall incur any personal liability in respect of acts done or liabilities incurred by or on behalf of, the Association.

**18. INTERPRETATION:**

- 18.1 Should any dispute or doubt arise as to the interpretation or meaning of this Constitution or any Rules and Regulations of the Association, Excom shall be the final arbiter and its decisions shall be binding upon the members.
- 18.2 Paragraph deleted (CSOS) (21/12/2021).
- 18.3 Paragraph deleted (CSOS) (21/12/2021).
- 18.4 Paragraph deleted (CSOS) (21/12/2021).

18.5 (21/12/2021)

Apart from questions of interpretation, any other dispute whatsoever which may arise shall be dealt with in terms of the Community Schemes Ombud Services Act 9 of 2011.

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