

# **CONSTITUTION**

of

## **GLENGARIFF HOME OWNERS ASSOCIATION**

P O BOX 19272  
TECOMA  
5214

COOPER CONROY BELL & RICHARDS INC  
(Reg No. 83/13472/21)  
ATTORNEYS NOTARIES & CONVEYANCERS

filecopy

Your Ref: 51/236 & 63/2/15/86 Mrs D Benn

Our Ref: Mr Cooper/kp

Date: 16 February 2001

Chief Executive Officer  
Amatola District Council  
40 Cambridge Street  
EAST LONDON

Dear Sirs

**SUBDIVISION OF FARM 723/36, EAST LONDON  
GLENGARIFF SHAREBLOCK COMPANY**

With regard to your letter of 7 November 2000, we now enclose herewith an amended Constitution. In this regard, apart from the amendments you have requested, at a recent general meeting certain additional rules and regulations were brought into being and for ease of reference, we draw your attention to the following :

1. Your requested amendments : Constitution - 10.3  
Annexure "A" - 8.2  
Annexure "B" - 3.3 and 4.9
2. Additional amendments : Constitution - 5.10 to 5.13  
Annexure "A" - 2.6.2, 7.2 and 10.2.2  
Annexure "B" - 1.4.2  
Annexure "C" - 10' (reduced to 2 months)

Yours faithfully  
**COOPER CONROY BELL & RICHARDS INC.**

**P G COOPER**

Encl.

# CONSTITUTION

## OF GLENGARIFF HOME OWNERS ASSOCIATION

### 1. NAME

This Home Owners Association is created in terms of the provisions of the Land Use Planning Ordinance No. 15 of 1985, in respect of Farm 723/36, East London and shall be known as GLENGARIFF HOME OWNERS ASSOCIATION.

### 2. MEMBERS

The members of the Association shall be limited to the registered owners of the sub-divisions of Portion 7 of Farm 723, Division of East London, according to the registered General Plan, provided that:

- 2.1 A person who is entitled to obtain a Certificate of Registered Title to any of the aforementioned erven in terms of the Deeds Registries Act No. 47 of 1937, as amended, shall for the purpose of this Constitution, be deemed to be the registered owner of such erf.
- 2.2 Where any such owner is more than 1 (one) person, all the registered owners shall be deemed to be jointly and severally 1 (one) member. The first co-owner to record his presence at a meeting shall be the person entitled to vote.
- 2.3 When a member ceases to be the registered owner of an erf, he shall ipso facto cease to be a member of the Association.
- 2.4 A member shall not transfer the erf unless it is a condition of such transfer that the transferee becomes a member of the Association, and shall ipso facto upon registration of transfer be a member of the Association, subject, bound and entitled to the provisions of this Constitution.

- 2.5 A registered owner of any subdivision of any portion of Portion 36 of Farm 723, East London of GLENGARIFF HOME OWNERS ASSOCIATION, shall be deemed to be a member of the Association and shall, so long as he is the registered owner of at least one of the erven, remain a member of the Association and may not resign his membership.
- 2.6 The rights and obligations of a member shall not be transferable and every member shall abide by and be subject to the provisions of this Constitution, and shall further the objects and interest of the Association, and shall observe all by-laws and regulations made by the Association, provided that nothing contained in this Constitution shall prevent a member from ceding rights in terms of this Constitution as security to the Mortgagee of the respective member's erf.

### 3. OBJECTS

The objects of the Association shall be:

- 3.1 To take transfer of any common property and acquire the shareholding in GLENGARIFF ENTERPRISES PHASE 1 SHARE BLOCK (PROPRIETARY) LIMITED, NO. 90/07668/07.
- 3.2 To control, regulate, maintain, repair, develop and keep in good order all areas, roadway and all services, common to and/or which serve and relate to the aforesaid erven following upon the aforesaid subdivision and development of the erven, to promote the common interest of the members as registered owners of the aforementioned immovable property.
- 3.3 To do all things necessary and relative to the reasonable and lawful requirements of the Local Authority, the Nature Conservation and Environmental Authorities.
- 3.4 To enforce the observance of the rules of the Association and the provisions of the Constitution and to deal with any infringement thereof.
- 3.5 The Management Regulations, being Annexure "A", and the Architectural and Landscape Conditions, being Annexure "B", shall be of force until amended as provided for in terms of Paragraph 6 of this Constitution.

- 3.6.1 To open and operate banking accounts and to have all such powers as are conferred by Schedule 2 of the Companies Act of 1973 as amended or substituted from time to time.
- 3.6.2 To invest any monies of the Association not immediately required for any of these objects or purposes in such manner as may from time to time be determined.
- 3.7 To raise funds as prescribed in Clause 7 of Annexure "C" hereto.
- 3.8 To do all such things and to have such powers as may be necessary to perform acts ancillary and supplementary to all powers and objects and powers of the Association.
- 3.9 To control development of both the common property and erven forming part of the aforementioned subdivision, and to do all such things as may be necessary to protect the environment of the common property and aforementioned erven so as to protect the ecology in accordance with the advice and requirements of the Local Authority, the Nature Conservation and Environmental Authorities.
- 3.10 To require owners of erven forming part of the aforementioned subdivision to keep all property, including improvements thereon in a good and proper state and condition, and to maintain and/or repair such as it may deem necessary, and in the event of failure of such erf owner, so to comply, to perform such acts as it may deem necessary in regard to such maintenance and/or repair, and to recover the cost and expense thereof from such erf owner. To any actual costs of labour and materials there shall be added 20% in respect of administration costs.
- 3.11 In order to save costs, the members of the existing Company may pass a Special Resolution to the effect that the liability of the members to pay levies to the Company are ceded to the Home Owners Association, in which case the Home Owners Association shall be liable to meet the Company's expenses.

#### 4. CONTROL

- 4.1 The powers of the Committee to manage and control the affairs of the Association shall be in accord with the Regulations as set out in Annexure "C" hereto and which shall remain in force until such time as amended in terms of Paragraph 6 of this Constitution.

5. LEVIES AND COSTS

The Association shall levy its members for the purpose of the following:

- 5.1 The Association shall make levies upon the members for the purpose of meeting all expenses which the Association has incurred or to which the Association reasonably anticipates it will be put by way of maintenance, repair, improvement and keeping in good order and condition the property as it is required to do, and/or for payment of all rates and other charges payable by the Association in respect of the common area and/or the services rendered to it and/or for payment of all expenses necessary or reasonably incurred in connection with the management of the Association, the common area and the Association's affairs. In calculating levies, the Association shall take into account income, if any, earned by the Association.
- 5.2 In arriving at the levy, the Committee shall present to a General Meeting an estimate of the anticipated costs for the ensuing year, which costs shall then be broken down into a monthly levy per unit. Payment of such monthly levy shall then be due on the first day of each and every month, the first payment being due on the first day of the new financial year.
- 5.3 In addition thereto, the members undertake in agreement with one another and with due regard to the rights and convenience of the others, to exercise their rights, and furthermore undertake to ensure that the external appearance of, and the maintenance of all land and all property and services owned by the Association are attended to in respect of the financial obligations which might be imposed upon them in agreement with one another, which financial obligations shall furthermore include any such legal obligations which might be imposed upon them by the Local Authority. Funds so levied from the members shall be utilised for the purposes aforesaid and in addition thereto, such expenditure as is required in respect of the Local Authority for rates and taxes, maintenance requirements and insurance, if applicable, and each owner of land shall be levied to the extent of such proportionate share in respect of the expenditure aforesaid.
- 5.4.1 Should it at any time become apparent to the Committee that the anticipated expenditure estimate is inadequate or should it become necessary for the Association to incur extraordinary expenses, it shall be entitled to require its members to pay an additional levy to cover such extraordinary expenditure.

- 5.4.2 In this regard, any anticipated expenditure as budgeted for in terms of Clause 5.2 that exceeds such budgeted figure by 15%, shall be referred back to a Special General Meeting prior to the Committee raising the levies.
- 5.4.3 As far as extraordinary expenses are concerned, if the matter is urgent to maintain the facilities and services, the Committee shall be entitled to raise such expenditure immediately, but shall as soon as possible refer the matter to a Special General Meeting.
- 5.5 Levies shall be paid within 7 (seven) days of due date and failing such payment shall carry interest at a rate to be determined by the Committee.
- 5.6 No member on ceasing to be a member, shall be entitled to repayment of any reserve funds of the Association.
- 5.7 That in the event of any member having the private use of any area, that member shall be responsible for the upkeep of such area.
- 5.8 Members owning undeveloped erven to which no services are supplied, shall pay a levy to cover the administrative costs of the Association, which percentage of administrative costs shall be determined by the Committee.
- 5.9 In the event of any member being in arrear with any levies, the Committee may request the Attorney attending to the transfer to withhold same pending the arrears being brought up to date or guaranteed.
- 5.10 The Committee is authorised, in its discretion, to allow a rebate on the levy owing by any member in the event of such levy being paid in advance by a certain date.
- 5.11 In the event of any member/tenant/occupier contravening any of these regulations which results in the Committee and the Association being put to any cost, the member/tenant/occupier shall be liable for such costs.
- 5.12 In the event of the Association having to issue summons against any person for monies owing to the Association, the Association shall be entitled to recover legal costs on an Attorney/client scale.
- 5.13 The Committee also, in its discretion, may withdraw services to any member who is in arrear with his levies.

6. AMENDMENT TO CONSTITUTION

- 6.1 The members may at any time by 75% (Seventy-Five Per Centum) of persons present at a general meeting, amend this Constitution.
- 6.2 The regulations referred to in 3.5, being Annexures "A" and "B" and the regulations referred to in 4.1 being Annexure "C", may be amended by 51% (Fifty-One Per Centum) of the persons present at a general meeting.
- 6.3 Any proposed amendments, either in terms of 6.1 or 6.2, shall be contained in the Notice of Meeting.

7. GENERAL

- 7.1 The requirement that the registered owner be a member of the Home Ownership Association shall be registered against their Title Deeds in the Deeds Office in King Williams Town, but in the event of the Local Authority not requiring it or the Registrar not registering such condition, the registered owner shall make it a condition that on any re-sale, such sale shall be conditional upon the new owner becoming a member of Glengariff Home Owners Association.
- 7.2 Members agree that a copy of such Sale Agreement shall be lodged with the Amatola District Council or any substituted Local Authority, which is authorised to place an interdict against the issue of a Rates Clearance Certificate until such time as the said new owner has agreed to be bound to a condition of sale referred to in 7.1.
- 7.3 The Association can withhold any Levy Clearance Certificate until such time as any new owner agrees to become a member of the Home Owners Association.

8. LEGAL ENTITY

The Home Owners Association shall be a legal entity, separate from its members and shall be entitled to sue and be sued in its own name.

9. LIABILITY OF MEMBERS

The liability of members is limited to any unpaid levies.

## 10. SERVICES AGREEMENT

The member is aware that the Association might have to assume responsibility, both physically and financially, for the :

- 10.1 connection of the internal engineering services to any bulk engineering services as may be required by the Local Authority;
- 10.2 upgrading of the internal engineering services to a standard commensurate with the developed and operational internal services on all abutting properties, with the levels of such abutting internal engineering services being determined by the Local Authority;
- 10.3 the owner of the erf shall, without compensation, be obliged to allow electricity cables, telephone, television cables and/or wires and mains and/or other water pipes and foul sewers and drainage, including stormwater pipes, ditches or channels of any other erf or erven to be conveyed across this erf and surface installations such as mini-substations, meter kiosks and service pillars to be installed thereon, if considered necessary by the Council and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time for the purpose of constructing, altering, maintaining, removing or inspecting any works connected with the above.

## 11. WINDING UP

The Home Owners' Association may be wound-up in the following circumstances :

- 11.1 Any Local Authority having jurisdiction no longer requiring the subdivisional erven to have a Home Owners' Association; and
- 11.2 51% (Fifty-One Per Centum) of the members of the Home Owners' Association agreeing to same after special notice proposing such winding-up has been given; and
- 11.3 In the event of the Home Owners' Association being wound-up, the meeting may give directions as to the manner in which the Home Owners Association is to be wound-up and also to the disposal of any surplus funds. The Notice of Meeting shall suggest to which purposes or institutions the surplus funds are to be awarded.

# GLENGARIFF HOME OWNERS' ASSOCIATION

## MANAGEMENT REGULATIONS

### 1. DEFINITIONS

- 1.1 "Member" - As defined in the Constitution.
- 1.2 "Control" - As defined in the Constitution.
- 1.3 "Committee" - Shall mean the body of person(s) appointed by members to attend to the running and affairs of the association.
- 1.4 "Home Owners' Association" - As defined in the Constitution.
- 1.5 "Property" - Shall mean all property under the control and administration of the Home Owners' Association.
- 1.6 "Common Property" - Shall mean the movable and immovable property owned by the Home Owners' Association.

### 2. USE OF PROPERTY

- 2.1 All members shall ensure that their respective activities on and uses of the property or any part thereof with all its services, facilities and amenities shall at all times be conducted and carried out with reasonable and diligent care and with due and proper consideration for other members of the Home Owners' Association in accordance with these regulations. These regulations shall likewise apply to guests and servants of members while they are on the property.
- 2.2 No members shall cause or permit any disorderly conduct of whatsoever nature on his erf or do or permit any act, matter or thing in or about the same which shall constitute or cause a nuisance or any inconvenience to any other member, occupant or staff of the Home Owners' Association.

- 2.3 All members shall strictly adhere to walkway access on the property in order that privacy of other members may not be infringed upon, or natural vegetation be disturbed in any way.
- 2.4 Members will endeavour to ensure that no strangers are admitted to the property and that their visitors will comply with the Rules and Regulation.
- 2.5 No caravans shall be parked or tents erected on the property.
- 2.6.1 Members may apply in writing for permission to keep no more than two dogs and one cat on an erf. The permission to grant a member the right to keep animals is at the sole discretion of the Committee and which permission may at any time, in the sole discretion of the Committee, be withdrawn in the event of these animals causing a nuisance to other members. The Manager has the right to capture and take any stray pets to the SPCA and the owner of the pet will be held liable for any associated costs.
- 2.6.2 No short terms tenant shall be allowed to have pets on the premises. This is relating more to casual tenants for week-ends and short periods.
- 2.7 Only emergency repairs to vehicles may be carried out on the property in order to make the vehicle mobile.
- 2.8.1 A motor vehicle shall not be parked in a place that may obstruct any roads or restrict members' access to their erven or damage any sewerage and water pipes.
- 2.8.2 No vehicles are permitted to drive down Lover's Lane.

3. **PRIOR CONSENT OF COMMITTEE (RESTRICTIONS)**

No member shall, save with the prior written consent of the Committee :

- 3.1 Erect any structure of permanent or semi-permanent nature, or effect any change or alteration to such existing structure, unless such structure will at all times comply with the Conditions and/or Specifications - a copy of which is annexed hereto marked "B".

- 3.2 Expose from or otherwise make visible from any building or elsewhere any washing or articles being aired or cleaned or any garbage, rubbish or rubbish bin in a manner which the Committee deems unsightly.
- 3.3 Deny the Committee or its servants or nominees access for the purpose of inspection, maintenance or performance of its duties to any portion of the erf under control of such member or other part of the common property which the member is entitled to use.
- 3.4 Neglect to make good any damage caused to any part of the common property by the member, his family, tenant, invitee or guest or any other person over which the member has control.
- 3.5 Allow any part of the erf that the member owns to become unsanitary or accumulated with rubbish, or become dirty or untidy.
- 3.6 Keep on the erf any materials of a dangerous or explosive nature, the keeping of which contravenes any statute or local regulation or by-law or constitutes a nuisance to other members or voids or renders void any insurance effected by the Home Owners' Association or any other members, or increases premiums.
- 3.7 Permit any of his possessions or the possessions of any of his household or any of his visitors or invitees to remain in any entrance, road, walkway or other part of the property to which members have common access.
- 3.8 Alter the general nature of the existing flora on the property except where fire control is the main object.

#### 4. HAZARDS

##### 4.1 Fire

Members may not commit or permit any act which would increase the hazard of fire or have the effect of increasing the rates of insurance premiums. Members will not be allowed to make fires other than in their own private braai areas.

5. REFUSE

The member shall not allow any rubbish, debris, dirt or refuse to be left anywhere on the property other than in places specifically designated for that purpose. The member shall ensure that all refuse and dirt is removed regularly from the premises and left in the places specifically designated therefor from time to time in polythene bags.

6. SECURITY

Unauthorised persons or others found causing a nuisance on the property should be reported to the Manager.

7. VEHICULAR ACCESS

- 7.1 Access roads to dwellings erected on the property will be for the sole use of members entitled to the use of such dwelling or people authorised by such member or a member of his family.
- 7.2 Motor cycles are only allowed access to the residence and are not to be used for running around the park.

8. BUSINESS AND AUCTION SALES

- 8.1 No member shall hold or allow any other person to hold on any portion of the property any auction sale without the prior written consent of the Committee, which consent shall not be unreasonably withheld.
- 8.2 No site may be used for any professional or business purposes, unless recommended by the Committee and approved by the Local Authority.

9. MANAGER

- 9.1 The Committee may appoint a Manager and/or employees on such terms, conditions and remuneration as they in their absolute discretion may deem fit. Such Manager will accept responsibilities as determined by and will report directly to the Committee.

- 9.2 Members may not, in any circumstances, interfere with the Manager in the execution of his duties as laid down by the Committee from time to time.

## 10. LETTING

The member may let or part with occupation of his erf provided :

- 10.1 That no such letting and/or parting with occupation shall in any way release the member from any of his obligations to the Home Owners' Association.
- 10.2.1 That as a condition precedent to any such letting and/or parting with occupation, the member shall secure from the Lessee, or the person to whom occupation is given, as the case may be, an undertaking in favour of the Home Owners' Association that such lessee or person shall duly observe all such regulations and conditions as are contained herein and which may be reasonably considered as being applicable to a lessee. Such undertaking shall be in terms as the Committee of the Home Owners' Association shall from time to time require.
- 10.2.2 The Committee shall prepare, from time to time, a form to be handed to any member who wishes to lease his unit in order for such owner's tenant to sign confirming the rules and regulations.
- 10.3 All permanent lessees are to be interviewed of by the Committee prior to taking occupation.

## 11. MAINTENANCE

- 11.1 The member shall at all times at his own expense maintain the buildings on his erf, including without limitation all electrical wiring and fittings, plumbing installations and apparatus and all fittings whatever in good and sound order and repair and in a thoroughly clean, tidy and tenable condition and shall be responsible for all maintenance, repairs and replacements of whatever nature, including without limitation, all painting, repairs and if necessary, the clearing of any blockages of drains, sewers, plumbing and sanitary equipment and connections and the maintenance and replacement thereof and all repairs and renovations to the erf of whatever nature, the Home Owners' Association having no liability therefor.

- 11.2 Where any dispute arises as to whose liability it is to maintain any portion of the property, such dispute shall be determined by the Committee of the Home Owners' Association and the decision of the Committee shall be final and binding on the parties to the dispute.
- 11.3 Should the member refuse to effect any repairs and/or renovations after 14 days of being instructed to do so by the Home Owners' Association, the Home Owners' Association may effect such repairs and/or renovations and claim the cost thereof from the member.
- 11.4 No structural alterations or additions to the water, gas, sewerage, electric conduits or plumbing may be effected without the written consent of the Home Owners' Association having been previously obtained and subject to the architectural and landscape conditions.
- 11.5 Members shall ensure that their sewerage system and waste water drains are hygienic and meet District Council requirements.

## 12. INSURANCE

That notwithstanding the provisions of the Share Block Control Act in regard to the liability of the members to take out insurance, it shall be the member's responsibility to effect his own insurance in respect of the contents of and of the buildings on his erf and to pay all insurance premiums in respect thereof.

## 13. RIGHTS AND OBLIGATIONS OF THE HOME OWNERS' ASSOCIATION

- 13.1 It shall be the duty of the Home Owners' Association at its own expense :
  - 13.1.1 to maintain in good order and repair and in clean and tenantable condition the roads, buildings, recreation facilities, lawns, pathways and all such other portions of the property which are not reserved for the exclusive use of the member.
  - 13.1.2 To effect such insurances over and in respect of the property not reserved for the exclusive use of members against damage in accordance with any relevant resolutions passed by the members of the Home Owners' Association from time to time at general meetings of the Home Owners' Association and to renew such policies.

- 13.2 The Home Owners' Association shall not be responsible for the repair and renovation of any portion of the property reserved for the exclusive use of the member, unless the Committee determine otherwise.
- 13.3 The Home Owners' Association shall at all times, through its servants, be entitled to inspect any erf occupied by a member and if dissatisfied with the condition thereof, it may call upon the member to carry out the obligations imposed upon him by the terms of this agreement. Should the member fail to maintain the said erf in good order and condition, the Home Owners' Association shall, after 14 (fourteen) days written notice to the member, be entitled without prejudice to any other rights it may have, to put the same into good order and condition at the expense of the member and to recover from the member any expenditure thereby incurred.
- 13.4 Any agent or workmen shall be permitted on any erf on the said property at any reasonable hour of the day if authorised by the Committee or Manager to examine or effect repairs to the said property.
- 13.5 The Home Owners' Association shall not be responsible for any loss, damage or injury which the member's visitors or any person occupying the erf through or at the instance of the member, which the member may sustain on the erf or in or about the Home Owners' Association property by reason of any act whatsoever, or neglect on the part of the Home Owners' Association or the Home Owners' Association servants, nor shall the Home Owners' Association be responsible for any loss, damage or injury of any description which the member or such other person may sustain by reason of the property or the buildings on the erf at any time falling into a defective state, or by reason of any repairs, renovations and/or maintenance work to the rest of the property which are effected by the Home Owners' Association or by the occupant thereof, or by reason of such repairs, renovations and maintenance work to the rest of the property which are effected by the Home Owners' Association or by the occupant thereof, or by reason of such repairs, renovations and maintenance work not being effected timeously or at all, and the member shall not be entitled for any of the reasons aforesaid or for any other reason whatsoever to withhold any payment due to the Home Owners' Association.
- 13.6 No liability shall result upon the Home Owners' Association for any interruption or failure of the electrical and/or other services to the property, irrespective of the cause thereof, nor for any consequential damage the member may incur by reason of such failure or interruption.

## GLENGARIFF HOME OWNERS' ASSOCIATION

### ARCHITECTURAL AND LANDSCAPE CONDITIONS

#### DESIGN THEME

The architectural and landscaping guidelines and conditions are considered necessary to preserve the unique natural features and environmental beauty of Glengariff. The intention is to ensure that any intervention in the form of either buildings or planting corresponds to the natural environment and is in harmony with it.

While freedom of individual expression is permitted, this is necessarily limited by those controls which are considered to be mutually advantageous to all members of the private estate. In general, the aim of the guidelines and conditions is to avoid harsh contrasts in the landscape and to encourage careful design so that there is harmony between the buildings and their sites and among the buildings themselves. The overall architectural theme envisaged is thus a function of the natural physical and climatic features of the site; it has no particular style but is rather characterised by a sense of timelessness and fit.

#### 1. GENERAL CONDITIONS

##### 1.1 Building Control

All members shall be subject to the "Architectural and Landscaping Conditions" laid down for the property.

##### 1.2 Building Plans and Alterations

Before submitting to the relevant Local Authority any plans for approval, a member shall submit such plans to the Home Owners Association Committee for scrutiny and approval. This is conditional upon the following :

- 1.2.1 the signatures of the immediate abutting neighbours are required on the plans;

1.2.2 in the event of the Committee, in its sole discretion deciding that the proposed building may affect any other erf, the Committee may request the member to obtain such other members approval;

1.2.3 Despite 1.2.2, the decision of the Committee as to whether or not to approve plans is in the sole discretion of the Committee.

1.3 Plans are to be scrutinised by the Home Owners' Association Committee and any amendments stipulated within a reasonable period, which should not exceed 30 days.

1.4 **Permitted Uses**

1.4.1 Only 1 (one) dwelling unit will be permitted on each erf and which shall not exceed more than two storeys. All outbuildings must form part of the main dwelling foundations and roof structure, unless the Committee, in exceptional circumstances, in its sole discretion, deems otherwise.

1.4.2 In the event of the building exceeding one storey, the top floor shall not exceed one-third of the ground floor area.

1.5 **Temporary Structures**

No caravans, prefabricated or other temporary structures will be permitted.

2. **SITE WORKS**

2.1.1 **Site Clearing**

The clearing of building sites should be phased so that only areas for immediate construction are cleared at a time. Valuable trees are to be protected by temporary fencing during construction.

2.1.2 **Site Levelling**

A site shall not be top filled to a level higher than the natural highest point of the site.

2.2 **Topsoil Protection**

Topsoil and organic material should be removed from the construction area and carefully stored for re-use in landscape work.

2.3 **Fill Material**

Material should be brought from outside the area. No damage to the commonage or exclusive use areas is permitted.

2.4 **Invasive Plants**

Invasive alien plants and seeds, which may be found on the site or brought in with imported material to the site, are to be removed or burned before these can spread into the surrounding veld.

2.5 **Penalties**

2.5.1 Members must ensure that their contractor observes the above conditions. The member may be penalised if the conditions are not observed.

2.5.2 The Association may insist upon a deposit being paid prior to such contractor moving on site.

3. **BUILDINGS AND SERVICES**

3.1 Building plans or any alterations of an external nature must be submitted to the Committee for approval as provided for in terms of Clause 1.2

3.2 **Site Layout**

Dwellings, including garages, carports or any other constructions are to be located within the perimeter of the site.

3.3 **Buildings and Building Lines**

Buildings shall conform to the National Building Code and must not encroach on the building line of 1.5 of the boundary. The sites abutting the resort boundary are to comply with the 3m building line.

3.4 **Materials**

In general, the members accept that materials such as corrugated iron which rusts, will not be used for the construction of the dwelling, roof or any awning.

3.5 **Colours**

The members accept that excessively bright colours, not in keeping with the area, will not be used to paint the walls etc.

3.6 **Gas & Refuse**

Gas Cylinders and refuse bins must be enclosed in an acceptable manner.

3.7 **Walls and Screens**

3.7.1 In keeping with the general policy, no perimeter walls or fences will be permitted;

3.7.2 Internal fences of a low nature will be allowed, subject to the approval of the Committee in writing, who reserve the right to withdraw such approval should circumstances warrant it.

3.7.3 Notwithstanding the above two sub-clauses, the Committee may at any time, in its sole discretion, allow perimeter walls or internal walls.

3.8 **Antennae, Pipes and Cables**

Projecting television or radio antennae should be as unobtrusive as possible and secured for safety.

3.9 **Electrical**

In respect of the electrical reticulation feeding, the undeveloped erven must comply with Association's master plan. A connection fee will be determined by the Committee, which fee will include an availability charge, prepayment meter and any cost incurred in making the supply available to a common boundary, as shown on the Electrical Reticulation Master Plan.

3.10 **Water**

The water reticulation feeding the undeveloped erven must comply to the Master Water Reticulation Plan and the connection fee will be determined by the Committee.

4. **LANDSCAPING**

4.1 **Sand Stabilisation**

All private outdoor areas immediately around the dwelling are to be properly stabilised with paving, gravel, grass or ground cover plants to prevent windblown sand.

4.2 **Driveways and Paths**

All driveways, parking areas and access paths are to be defined and stabilised to prevent the proliferation of tracks in sensitive vegetation.

4.3 **Appropriate Planting**

Invasive-type alien species or other exotic plants are prohibited in private gardens. Only local indigenous coastal vegetation is permitted within the garden or exclusive use area.

4.4 **Protected Trees**

No trees, which are protected by law, may be cut or pruned without a permit from the Department of Forestry.

4.5 **Stormwater Drainage**

Drainage from roofs and paving areas should not be concentrated, but dispersed to planted areas on porous sandy soil, or led to stone-filled soakaways, to seep back into the ground.

4.6 **Building Clause**

Buildings must be completed within 12 months from approval of plans.

4.7 **Control of Building Teams**

Building contractors must ensure that labour is controlled in such a way as to cause no nuisance, little disturbance or damage to surrounding areas. Only building contractors who are approved by the Home Owners' Association Committee are permitted to operate on the Estate.

4.8 **Use of Water**

Water is a scarce resource and the abuse of water by members will be dealt with in an appropriate manner by the Home Owners' Association who may apply whatever restrictions it deems fit. Removal of water from the complex will only be allowed with written permission from the Committee.

4.9 **Departures**

The Home Owners' Association may in their absolute discretion permit departures from these Architectural and Landscape conditions where they deem it appropriate and where the departure concerned does not interfere with the rights of enjoyment of other members and the final approval being granted by the Local Authority.

## GLENGARIFF HOME OWNERS ASSOCIATION

### PROCEDURE AT MEETINGS AND POWERS OF COMMITTEE

#### 1. GENERAL MEETINGS

- 1.1 The Home Owners' Association shall hold its first annual General Meeting within (18) eighteen months after the date of its incorporation and shall thereafter in each year hold an annual General Meeting within 6 (six) months after its financial year end.
- 1.2 A General Meeting of the Home Owners' Association shall be held at such time and place as determined by the Committee.
- 1.3 A member shall be entitled to appoint a proxy to attend and speak and, on a poll, to vote on his behalf, at any General Meeting.

#### 2. NOTICE OF GENERAL MEETINGS

- 2.1 An annual General Meeting and a meeting called for the passing of a special resolution shall be called by not less than 21 (twenty-one) clear days notice in writing, and any other General Meeting may be called by not less than 14 (fourteen) clear days notice in writing. The notice shall be exclusive of the day on which it is posted or deemed to be served and of the day for which it is given, and shall specify the place, the day and the hour of the meeting and shall be given in the manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the General Meeting, to such persons as are entitled to receive such notices from the Home Owners' Association, provided that a meeting of the Home Owners' Association shall, notwithstanding the fact that it is called by shorter notice than that specified in this document, be deemed to have been duly called if it is so agreed by a majority in number of members having a right to attend and vote at the meeting, being a majority holding not less than 75% (seventy-five per cent) of the total voting rights of all the members present.

3. PROCEDURE AT GENERAL MEETINGS

- 3.1 The annual General Meeting shall deal with and dispose of all matters prescribed by the notice, including the consideration of the annual financial statements, the election of a Committee and the appointment of an Accounting Officer, and may deal with any other business laid before it. All business laid before any other General Meeting shall be considered special business.
- 3.2 No business shall be transacted at any General Meeting unless a quorum of members is present at the time when the meeting proceeds to business. Save as herein otherwise provided, 20% (twenty per cent) of members present in person or by proxy shall be a quorum.
- 3.3 If within half an hour after the time appointed for the meeting a quorum is not present, the meeting, if convened by or at the request of members, shall be dissolved and in any other case it shall stand adjourned to a day not earlier than 7 (seven) days and not later than 21 (twenty-one) days after the date of the meeting and if at such adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the members present in person or by proxy shall be a quorum.
- 3.4 Where a meeting has been adjourned as aforesaid, the Home Owners' Association shall, upon a date not later than 3 (three) days after the adjournment, send a written notice to each member of the Home Owners' Association stating :
- 3.4.1 the date, time and place to which the meeting has been adjourned;
- 3.4.2 the matter before the meeting when it was adjourned; and
- 3.4.3 the ground for the adjournment.
- 3.5 The Chairman of the Home Owners' Association or a Committee Member shall be the Chairman of such meeting and failing any Committee Member, the members present may elect a Chairman.
- 3.6 The Chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

- 3.7 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 Chairman, or by any member or his proxy having the right to vote at such a meeting and, unless a poll is so demanded, a declaration by the Chairman that a resolution has, on a show of hands, been carried or carried unanimously or by a particular majority or negatived, and an entry to that effect in the book containing the minutes of the proceedings of the Home Owners' 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.
- 3.8 If a poll is duly demanded, it shall be taken in such a manner as the Chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. Scrutineers shall be elected to determine the result of the poll.
- 3.9 In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place, or at which a poll is demanded, shall not be entitled to a second or casting vote.
- 3.10 A poll demanded on the election of a Chairman 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 Chairman 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.

#### 4. PROXIES

- 4.1 The instrument appointing a proxy shall be in writing under the hand of the appointer or of his agent duly authorised in writing, or, if the appointer is a body corporate, under the hand of an officer or agent authorised by the body corporate. A proxy need not be a member of the Home Owners' Association. The holder of a general or special power of attorney, whether he is himself a member or not, given by a member, shall be entitled to attend meetings and to vote, if duly authorised under that power to attend and take part in the meetings.
- 4.2 The proxy must be in such form that it is acceptable to the Home Owners' Association.

- 4.3 A member may not appoint more than 1 (one) proxy for any meeting.
- 4.4 A proxy shall be deposited at the offices of the Home Owners' Association not less than 1 (one) hour before the time appointed for the holding of a General Meeting at which such person or persons proposes to vote.
- 4.5 A vote cast or act done in accordance with the terms of a proxy form shall be deemed to be valid notwithstanding the previous death, insanity, or any other legal disability of the person appointing the proxy, or the revocation of the proxy, or the transfer of a share in respect of which the proxy was given, unless notice as to any of the abovementioned matters shall have been received by the Home Owners' Association at its offices or by the Chairman of the meeting at the place of the General Meeting if not held at the offices of the Home Owners' Association, before the commencement of the General Meeting or adjourned General Meeting at which the vote was cast or the act was done or before the poll on which the vote was cast.

## 5. COMMITTEE MEMBERS

- 5.1 The number of Committee Members shall be determined by the General Meeting from time to time, but shall be not less than 5 (five) nor more than 10 (ten). A Committee member must be a member or spouse of a member of the Home Owners' Association.
- 5.2 The Committee shall have power from time to time to appoint a member to the Committee to fill a casual vacancy or as an additional Committee Member.
- 5.3 The remuneration of the Committee shall from time to time be determined by the Home Owners' Association in General Meeting.

## 6. POWERS AND DUTIES OF COMMITTEE MEMBERS

- 6.1 The business of the Home Owners' Association shall be controlled and managed by the Committee who may pay all expenses incurred in promoting and incorporating the Home Owners' Association and may exercise all such powers of the Home Owners' Association as are not by this Constitution required to be exercised in General Meeting, or as may be prescribed by the Home Owners' Association in General Meeting; but no Resolution prescribed by the Home Owners' Association in General Meeting shall invalidate any prior act of the Committee which would have been valid if such Resolution had not been made.

**7. BORROWING POWERS**

- 7.1 The Committee may not, without the sanction of a General Meeting, borrow funds, nor mortgage or in any other way encumber its property or issue debentures, debenture stock or other securities whether outright or as security for any debt, liability or obligation of the Home Owners' Association.

**8. RULES**

- 8.1 The Committee may make rules for the general conduct of the resort. These rules shall be in force from the date the Committee makes the Resolution and shall be tabled at the next subsequent General or Special Meeting for approval.

**9. MINUTES AND MINUTE BOOKS**

The Home Owners' Association shall cause minutes to be kept :

- 9.1 of all appointments of officers;
- 9.2 of names of the Committee Members present at every meeting of the Committee; and
- 9.3 of such proceedings at all meetings of the Committee and of the General Meetings.

Such minutes shall be signed by the Chairman of the meeting at which the proceedings took place or by the Chairman of the next succeeding meeting.

**10. DISQUALIFICATION OF COMMITTEE MEMBERS**

- 10.1 The office of a Committee Member shall be vacated if the Committee Member is prohibited from being or is removed as or is disqualified from acting as a managing member in terms of Section 47 of the Close Corporations Act, or gives notice to the Home Owners' Association of his resignation as a Committee Member with effect from the date stipulated in such notice, or absents himself from meetings of the Committee

for 2 (two) consecutive months without special leave of absence from the other Committee Members who resolve that his office shall be vacated, provided that this provision shall not apply to a Committee Member who is represented by an alternate who does not so absent himself. Nothing in this Constitution shall prevent a general or Special Meeting from removing any Committee member by a majority vote.

## 11. PROCEEDINGS OF COMMITTEE

- 11.1 The Committee may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In the event of any equality of votes the Chairman shall have a second or casting vote. A Committee Member may, and the secretary on the requisition of a Committee Member shall, at any time convene a meeting of the Committee.
- 11.2 A Committee Member shall not vote in respect of any contract or proposed contract with the Home Owners' Association in which he is interested, or any matter arising therefrom, and if he does so vote his vote shall not be counted. However, it shall be incumbent upon every Committee Member to declare his interest in any contract to be debated by the Committee.
- 11.3 A quorum necessary for the transaction of the business of the Committee, shall be not less than 3 (three) and if there are more than 6 (six) members, 51% of the number of Committee Members shall form a quorum.
- 11.4 Subject to the provisions of the Committee, a resolution in writing, signed by all the Committee Members, shall be as valid and effectual as if it had been passed at a meeting of the Committee duly convened and held. Such resolutions shall be deemed to be a minute of the Committee meeting and recorded at the next meeting of the Home Owners' Association.
- 11.5 The Committee may elect a Chairman of their meetings and determine the period for which he is to hold office, but if no such Chairman is elected or if at any meeting the Chairman is not present within 5 (five) minutes after the time appointed for holding the same, the members present may elect one of their number to be Chairman of the meeting.

- 11.6 The Committee Members may delegate any of their powers to Committees consisting of such member or members of their body as they think fit. Any Committee so formed shall, in the exercise of the powers so delegated, conform to any rules that may be imposed on it by the Management Committee.
- 11.7 A Committee may meet and adjourn as it thinks fit.
- 11.8 All acts done by any meeting of the Committee shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Committee Member or person acting as aforesaid or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and were qualified to be a Committee Member.

## 12. ACCOUNTING RECORDS AND ANNUAL FINANCIAL STATEMENTS

- 12.1 The Home Owners' Association shall keep or arrange to be kept in one of the official languages of the Republic all accounting records that are required or necessary to enable them to compile financial statements which will indicate the financial state of affairs of the Home Owners' Association at any given time.
- 12.2 The said financial statements must be approved by the Committee and must enable the Accounting Officer to report to the members in terms of his appointment.

## 13. ACCOUNTING OFFICER

- 13.1 The members shall appoint an Accounting Officer in terms of the Close Corporations Act.
- 13.2 The Accounting Officer of the Home Owners' Association shall be required to report to the Home Owners' Association on the financial statements, as prepared and approved by the Committee.

## 14. NOTICES

- 14.1 A notice may be given by the Home Owners' Association to any member either personally or by sending it by post in a prepaid letter addressed to such member at his registered address or (if he has no registered address in the Republic) at the address (if any) within the Republic supplied by him to the Home Owners' Association for the giving of notices to him.

- 14.2 Whenever a notice is to be given in terms of Clause 13.1 above, the notice may be given by the Home Owners' Association to the joint holders of an erf by giving the notice to the joint holder named first in the register in respect of the erf.
- 14.3 Whenever a notice is to be given personally or sent by post, the notice may be given by the Home Owners' Association to the persons entitled to notice in consequence of the death or insolvency of a member, or by sending it through the post in prepaid letter addressed to them by name, or by the title of representatives of the deceased, or trustees of the insolvent or by any like description, at the address (if any) in the Republic supplied for the purpose by the persons claiming to be so entitled, or (until such address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or insolvency had not occurred.
- 14.4 A notice of every General Meeting shall be given in any manner authorised :
- 14.4.1 to every member of the Home Owners' Association except, in the case of notices to be given personally or sent by post, those members who (having no registered address within the Republic) have not supplied to the Home Owners' Association an address within the Republic for the giving of notices to them;
- 14.4.2 to every person entitled to a share in consequence of the death or insolvency of a member who, but for his death or insolvency, would have been entitled to receive notice of the meeting; and
- 14.4.3 to the Accounting Officer for the time being of the Home Owners' Association.
- No other person shall be entitled to receive notice of General Meetings.
- 14.5 Any notice by post shall be deemed to have been served at the time when the letter containing the same was posted, and in proving the giving of the notice by post, it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.
- 14.6 A notice given to any member shall be binding on all persons claiming on his death or on any transmission of his interests.
- 14.7 The signature to any notice given by the Home Owners' Association may be written or printed, or partly written and partly printed.

- 14.8 When a given number of days notice is required to be given, the day of postage shall not be counted in such number of days or period.

15. INDEMNITY

- 15.1 Every officer or employee or Accounting Officer of the Home Owners' Association shall be indemnified out of the funds of the Home Owners' Association by the members of the Committee in the event of such officer or employee being sued or charged in any Court in connection with his office or his duties as any employee.
- 15.2 The above is subject to an Attorney certifying to the Committee that the prospect of success in a civil action is reasonable.
- 15.3 In respect of a criminal action, that an Attorney certifies to the Committee that the prospects for success in mitigation of sentence is reasonable, having regard to the offences and the negligence/liability of the officer/employee.