

## **VILLA CHANTE**

### **PROPOSED AMENDMENTS TO CONDUCT RULES**

#### **INTERPRETATION**

In the interpretation of these rules, unless the context otherwise indicates words and expressions used shall bear the meaning assigned to them in the sectional Titles Act 95 of 1986 as amended from time to time.

#### **INTRODUCTION**

These conduct rules have been prepared to assist residents to appreciate and enjoy the lifestyle that Villa Chante offers, and to encourage them to respect the rights, interest and welfare of all members of Villa Chante who want to live their lives in a semi-sheltered environment with like-minded people.

The Sectional Titles Act, the Local Authority By-laws, Management Rules, Regulations and the Conduct Rules, which, inter alia, govern this community, have to be followed in terms of the law, and it is the Trustees' responsibility to ensure that these are carried out by all in the interest of all.

The Manager, Security Officer, Admin Staff and / or nominated members of the Body Corporate shall assist the Trustees in the application / execution of these rules.

#### **USE**

An owner / tenant shall not use or permit his section and exclusive use area to be used for any other purpose as is shown expressly or by necessary implication on or by the registered sectional plan.

#### **CONDUCT RULES**

Happy and satisfying community living is achieved when owners, tenants, residents, visitors and occupants use and enjoy their sections and the common property in such a manner that they show respect for the rights of other persons lawfully on the property. Compliance with these Conduct Rules and general consideration by owners, tenants, residents and visitors for each other will greatly assist in achieving a happy community.

The Conduct Rules are binding on all owners and, all persons occupying any section who, in turn, are responsible for ensuring that members of their families and their tenants, invitees and staff comply with these Conduct Rules.

Owners who let their units MUST, and are obliged in terms of the Sectional Titles Act to, incorporate the Conduct Rules in their tenancy / lease agreements (copies of which are available from the Managing Agent at a fee).

In the event of annoyance, aggravation or complaint(s) occurring between owners, tenants, residents, visitors and / or occupants an attempt should be made by the parties concerned to settle the matter between themselves. This should be done with consideration and tolerance.

If and when problems cannot be resolved between the parties concerned through the procedure above, only then should they be brought, in writing, to the notice of the Trustees.

As with most communities there are always a few who do not understand the concept of a community and community living, and it is for these few persons that certain penalties and / or fines must be imposed. Although regrettable, the enforcement of these penalties and / or fines are necessary and in the interest of maintaining proper order in Villa Chante.

In respect of the interpretation of these Conduct Rules the decision of the Trustees shall be final and binding.

### **PAYMENT OF LEVIES AND SPECIAL LEVIES**

The purpose of a levy is to pay for electricity, effluent, refuse removal, maintenance of common property, employees' salaries, insurance, gardens, etc. Failure by Villa Chante to pay these accounts simply results in suspension of a service or services to the detriment of all members.

Levies and all other monies due to the Body Corporate are due and payable in advance on the first Day of each month. Failure to pay monies promptly when due, or within such "days of grace" as may be allowed from time to time by the Trustees, will result in the debiting of interest calculated at maximum interest rates allowable by law to the accounts concerned, and may also cause legal action to be taken against defaulters.

Special care is to be taken and attention is drawn the fact that, in the sole discretion of the Trustees, notification of defaulters may be made public to all other owners. Non receipt of levy accounts / statements does not excuse a member from payment of due accounts.

### **CONCLUSION**

The rules are aimed at ensuring harmonious living within a semi-sheltered environment.

# **VILLA CHANTE BODY CORPORATE**

## **CONDUCT RULES**

### **BUSINESS ACTIVITIES**

Without the prior written consent of the Trustees:

- 1.1 No business, profession or trade may be conducted on the common property or in a section, except those which are specifically allowed by the Local Authority to be conducted in a Sectional Title Scheme or as they may be authorised by the Board of Trustees.
- 1.2 No auction or jumble sale may be held on the common property or in a section. Written permission may be granted by the Trustees in exceptional circumstances.
- 1.3 No advertisements may be exhibited or distributed in Villa Chante except as authorised by the Board of Trustees in writing.
- 1.4 Signs and notices: No owner, tenant, resident, visitor or occupant of a section or their agent(s) shall place or distribute any sign, notice, billboard or advertisement of any kind whatsoever on any part of the common property or of a section, so as to be visible from the outside of the section, without the written consent of the Trustees first having been obtained.
- 1.5 Estate agent / Agency, Private Sale, Private Letting and Conveyancing activities:
  - (a) Only estate agents / agencies accredited by the Trustees from time to time may within Villa Chante perform such duties normally associated with estate agents / agencies. In order for an estate agent / agency to commence his / her / its business practices / activities once accredited, he / she / it may only commence same upon having paid to the Villa Chante Body Corporate a yearly affiliation fee of R1 500.00 (One Thousand Five Hundred Rand), the said funds which are to be dispersed of as determined from time to time by the Board of Trustees duly authorised by its members of the Body Corporate at a Special or at the Annual General Meeting.
  - (b) Notwithstanding the local by-laws and the provisions of any agreement entered into, an estate agent / agency or owner (including but not limited to his / her / its duly authorised third party agent) selling or letting a unit may only display a signboard at such place(s) as identified by the Trustees from time to time until such unit is sold or let, and may only display a "sold" signboard at the same place for a period to be pre-approved by the Trustees.
  - (c) Registration of Transfer in the Deeds Office of units and its exclusive use areas (where applicable), shall be undertaken by the panel of attorneys / conveyancers appointed as such by the Trustees from time to time.
  - (d) Estate Agents / Agencies or owners (including but not limited to his / her / its duly authorised third party agent) may only make use of agreements of sale, lease agreements and similar and / or relating industry agreements / documents once same have first been pre-approved by the Board of Trustees. Nothing prohibits the Board of Trustees, in pre-approving the said



agreements / documents, to demand inclusion of additional terms and conditions to give effect to the Sectional Titles Act, these, as well as the Management Rules.

- (e) In the event of a body corporate member failing, refusing and / or neglecting to comply with the rules as set out hereinto, the Trustees may instruct the Managing Agent to withhold the issuing of the Section 15B(3) Act 95 of 1986 – certificate until the Trustees are satisfied of due and proper compliance.

The aforesaid provisions are included for the purpose of ensuring proper compliance with the Sectional Titles Act, as well as the Management and Conduct Rules imposed from time to time, to ensure uniformity, and harmonious community living within Villa Chante. Appointments to such panel shall not be unreasonably withheld.

### **ENFORCEMENT OF RULES**

In the event of a disregard of any of these rules proved to the satisfaction of the Trustees, the Trustees shall, in addition and without prejudice to all other rights available to them or the Body Corporate in law and in particular their right to apply to Court for an interdict against the offending owner, be empowered to institute a pecuniary penalty up to an amount of R1000.00 (One Thousand Rand) per count, which maximum penalty the Board of Trustees may increase from time to time.

The procedure to be adopted by the Trustees imposing this penalty, which is set out in Annexure "A", which is annexed hereto should however, but without incurring any obligation in this regard or being bound so to do, be proceeded by an endeavour, where possible, to warn an offending owner, tenant, resident, visitor or occupant in writing of any complaint made against him and request him to refrain from any conduct likely to give rise to complaints of a similar nature.

### **ANNEXURE "A"**

- A. Any breach of the Conduct Rules, or any conduct detrimental or prejudicial to the interest of the Body Corporate or unbefitting a member thereof shall be notified to the Trustees in writing, which notification shall contain full details of the alleged breach of Conduct Rules and be signed by the person making same.
- B. On receipt of the aforesaid notification the Trustees shall forthwith despatch a copy thereof to the person against whom the complaint has been made (the alleged offender hereinafter) and advise him of a time, date and place at which the complaint shall be adjudicated upon. The Trustees shall similarly notify the complainant of such time, date and place.
- C. At the appointed time and place a quorum of not less than 3 (three) Trustees, or 50% +1 of the Trustees whichever is the lesser shall enquire into and investigate the complaint, and shall have the power to call before them and examine any member of the Body Corporate, any owner, tenant, resident, visitor, occupant or any other person who may be able to give evidence of assistance to the Trustees in arriving at a decision. The Trustees shall also have the power and be entitled to appoint an attorney to act on behalf of the Body Corporate.
- D. If after due delivery and providing that an application for an adjournment or remand has not been submitted by the alleged offender in writing and duly served upon the Trustees, the alleged offender

fails or refuses to attend the adjudication the Trustees shall be empowered to adjudicate in the alleged offender's absence, and such findings as may be made shall then have the due force and effect of a finding made in his presence and with his participation.

- E. The alleged offender shall have the right to call evidence in support of his contentions and in defence to the complaint against him and he, the complainant and any person giving evidence at the enquiry shall have the right to be legally represented, providing only that this shall be done at their own cost and not that of the Body Corporate or Trustees.
- F. After hearing all the evidence considered necessary by them, the Trustees shall give such decisions as appears to the majority of them to be just and equitable and may decide to take no action, or to caution or reprimand the alleged offender or to impose a pecuniary penalty in the sum not exceeding R1000.00 (One Thousand Rand). Such pecuniary penalty shall be paid into the coffers of the Body Corporate. Notwithstanding the above, the Trustees may suspend such pecuniary penalty in total or in part, may require the alleged offender to lodge a pecuniary bond or pledge which shall be repayable (without interest) after a period specified by the Trustees, which pledge shall be considered to be a "binding over to keep the peace" as practised in South African Criminal Law. Nothing shall prevent the Trustees should the facts so warrant it, from binding both alleged offender and complainant over to keep the peace.
- G. If the Trustees decide to impose a pecuniary penalty the fact thereof and the amount and the amount of the penalty shall be certified in writing by the Chairman of the Trustees and delivered to the alleged offender who shall, subject to the right of appeal hereinafter set out, be obliged to pay the Body Corporate the amount of the penalty therein prescribed within a period of 28 (Twenty Eight) days of receipt of such certificate.
- H. The Trustees shall forthwith inform all members of the Body Corporate, in writing, of the outcome of the enquiry and the amount of the penalty imposed, if any, but failure to do so shall not invalidate the enquiry, the verdict and the imposition of the penalty or any further legal rights subsequent to this.
- I. The alleged offender and any other member of the Body Corporate shall have the right to appeal to an extraordinary general meeting of the Body Corporate. Such appeal shall be lodged in writing with the Chairman of the board of Trustees within 21 (Twenty One) days of the date of decision, failing which the right of appeal shall lapse. The notice of appeal shall be signed by the appellant and specify the grounds of appeal. Until expiry of the period of 21 (Twenty One) days aforesaid, any consequences arising from the verdict and sentence be deemed to be suspended.
- J. Upon the timely receipt of a duly completed notice of appeal, such consequences shall likewise be suspended until the determination of the appeal and the Chairman of the Trustees shall, within 21 (Twenty One) days after receipt of the notice of appeal convene an extraordinary general meeting of the Body Corporate for the purpose of hearing the appeal. The provisions contained in Annexure 8 of the Sectional Titles Act, Act 95 of 1986 as amended relating to the convening and conduct of meetings shall prevail.
- K. At the extraordinary general meeting the provisions of C, D, E, F and G shall apply *mutatis mutandis* (generally as prescribed but could be altered when necessary). An appeal shall be decided by an ordinary majority of the members present at the extraordinary general meeting who shall have absolute discretion and whose decision shall be binding on the alleged offender and all members of the Body Corporate.



- L. On appeal the decision of the Trustees may be confirmed, set aside or otherwise varied as the Body Corporate may determine. If the appeal is dismissed any penalty imposed by the Trustees and / or Body Corporate shall be paid by the appellant within 7 (seven) days of the date of such dismissal.
  - M. No member of the Body Corporate or a Trustee shall be entitled to adjudicate or vote on any matter in which he was the initial "alleged offender".
  - N. Nothing in the rules or in Annexure "A" shall be considered as removing the rights of the Board of Trustees to remand or adjourn an enquiry, provided that this is in the interest of justice and equity.
  - O. A written record of the initial enquiry and appeal may be kept by the Chairman of the Board of Trustees or his delegated deputy. Should such written record be kept it shall be deemed absolutely to be kept a correct and accurate transcript of all proceedings.
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