



CONSTITUTION OF FAIRFIELDS HOMEOWNERS' ASSOCIATION

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DEFINITIONS

- (a) In this Constitution, the masculine shall include the feminine and the neuter genders, and the singular shall include the plural. Words importing natural persons shall include partnerships, trusts and legal persons.
- (b) The headings to the paragraphs in this Constitution are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.
- (c) This Constitution and any reference thereto shall include all annexures mentioned herein as well as any documents incorporated herein by reference thereto.
- (d) Unless otherwise indicated:

Developer

means

1. **AURELIA ANGELA KINCAID**
Identity Number: 650520 0019 08 3
Married out of Community of Property

and

2. **MARK KINCAID**
Identity Number: 600929 5315 08 4
Married out of community of property

and shall include his/her/its successors in title or assigns;

Conduct Rules

means the Conduct Rules as implemented by the Developer, as amended from time to time by the Developer or the Home Owners' (HOA);

Constitution

means this Constitution of the Home Owners' HOA as implemented by the Developer, and as amended from time to time by the Developer or Home Owners' HOA in terms of the provisions hereof;

HOA	means the Homeowners' Association of the Scheme;
Owner/s	means an Owner/s from time to time of any Unit in the Scheme;
Units	means one of the subdivided Units to be transferred in freehold;
Property	means the property described as <p>REMAINDER ERF 452 GOUDA, in the Division of Tulbagh, PROVINCE OF THE WESTERN CAPE;</p> <p>IN EXTENT: 45,8506 (FORTY-FIVE COMMA EIGHT FIVE NIL SIX) Hectares;</p> <p>Including roads as shown on General Plan K 36;</p>
Scheme	means the development scheme known as FAIRFIELDS, consisting of the land (the Property) and services established or to be established thereon, and the subdivisions of such land;
Unit	means a subdivision of the Property;
Architectural Guidelines	means the Architectural Guidelines as determined from time to time by the Developer or, after the establishment of the Home Owners' HOA, by the same;

All Owners of Units in the Scheme are obliged to be members of the Homeowners' HOA ("the HOA"), which is to be established with the purpose of ensuring co-ordinated development and orderly maintenance of the Scheme. Upon registration of transfer of any Unit in his/her/its name, each Owner shall automatically become a member of the

HOA and shall be bound by this Constitution. The HOA shall be deemed to be founded on the day of registration of transfer of a Unit in the Scheme to the first Owner other than the Developer. The Developer shall be and remain a member of the HOA until it is divested of all interest in Scheme 1.

COMMITTEE OF THE HOA

- 1 There shall be not less than three, nor more than five members of the committee who shall be Owners, or nominees of Owners who are juristic persons, and who shall be elected at each Annual General Meeting, provided that the Developer shall be a member of the Committee, until cessation of his/her/its membership in Scheme 1. In the event of registration of transfer of one Unit on the opening of the Scheme, the Committee shall be the Developer and such Owner until the registration of all nine transfers in Scheme 1, upon which membership by the Developer will cease.
- 2 The HOA members may by resolution at an extraordinary General Meeting remove any committee member, from the office before the expiration of his terms of office and appoint another Owner, or another nominee of an Owner who is a juristic person, in his place to hold office until the next Annual General Meeting.
- 3 Any casual vacancy among the committee members may be filled by the remaining committee members.
- 4 At a meeting of committee members, two members shall form a quorum where there are four or less than four members, three members shall form a quorum where there are five members.
- 5 (a) At the commencement of the first meeting of the committee members after the Annual General Meeting, the committee members shall elect a chairman, who shall hold office as such until the next ensuing Annual General Meeting and who shall have a casting as well as a deliberative vote.

(b) If any chairman so elected vacates his office as chairman before the expiration of his period of office, the committee members shall elect another chairman who shall hold office as such for the remainder of the period for which the first-mentioned chairman was so elected and who shall have the same rights of voting.

- (c) If any chairman so elected vacates the chair during the course of a meeting, or is for any reason unable to preside at any meeting, the committee members shall choose another chairman for that meeting who shall have the same rights of voting.

- 6 All matters at any meeting of the committee members shall be determined by simple majority vote, unless the agreement of sale of the Unit by the Developer provides to the contrary.

- 7 The committee may -
 - (a) meet together for the conduct of business and adjourn and otherwise regulate their meetings as they deem fit: Provided that they shall meet when any committee member gives to the other committee members not less than 14 days' notice of a meeting proposed by him, specifying the reason for calling such meeting;
 - (b) appoint for and on behalf of the HOA such agents and employees as they deem fit in connection with the control, management and the exercise and performance of the powers and duties of the HOA;
 - (c) subject to any restriction imposed or direction given at a General Meeting, delegate to one or more of the committee members such of their powers and duties as they deem fit, and at any time revoke such delegation.

- 8 The committee shall -
 - (a) keep minutes of its proceedings;
 - (b) cause minutes to be kept of General Meetings;
 - (c) cause proper books of account to be kept in respect of all sums of money received and expended by it and the matters in respect of which such receipt and expenditure occur;
 - (d) open and maintain a bank cheque account at a registered bank;
 - (e) for each Annual General Meeting, prepare proper accounts, audited by a registered chartered accountant, relating to all moneys and the income and expenditure of the HOA;

- (f) on the application of an OWNER or any person authorised in writing by him, make the books of account available for inspection at all reasonable times.
- 9 Any act performed in good faith by the committee shall, notwithstanding that it is after the performance of the act discovered that there was some defect in the appointment or continuance in office of any committee member, be as valid as if such member had been duly appointed or had duly continued in office.
- 10 The chairman of the committee shall sign every instrument on behalf of the HOA but together with at least one further committee member, shall sign all cheques on behalf of the HOA.

GENERAL MEETINGS

- 11 General Meeting of Owners shall be held within three months of the date on which the HOA comes into being.
- 12 Subsequent General Meeting shall be held once in each year: Provided that not more than fifteen months shall elapse between the date of one Annual General Meeting and that of the next.
- 13 All General Meetings other than the Annual General Meeting shall be called extraordinary General Meetings.
- 14 The committee may whenever it thinks fit, and shall, upon a requisition in writing made by 25% of the Owners, convene an extraordinary General Meeting.
- 15 Fourteen (14) days' notice of every General Meeting specifying the place, the date and the hour of the Meeting and, in the case of special business, the general nature of such business, shall be given to all Owners; provided that inadvertent omission to give such notice to any Owner or the non-receipt of such notice by any Owner shall not invalidate any proceedings at any such meeting.

PROCEEDINGS AT GENERAL MEETINGS

- 16 Save that consideration of the accounts and the election of committee members at an Annual General Meeting shall be ordinary business, all business at any General Meeting shall be special business.

- 17 (a) Save as in this Constitution is otherwise provided, no business shall be transacted at any General Meeting unless a quorum of persons entitled to vote is present at the time when the meeting proceeds to business.
- (b) One-half of the persons to a vote in or by proxy shall constitute a quorum.
- 18 If within half an hour from the time appointed for a General Meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same place and time, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the persons present and entitled to vote shall be quorum.
- 19 At the commencement of a General Meeting, a chairman shall be elected for the meeting.
- 20 (a) At any General Meeting a resolution by the vote of the meeting shall be decided on a show of hands unless a poll is demanded by any Owner in person or by proxy.
- (b) Unless a poll be so demanded, a declaration by the chairman that a resolution has on the show of hands been carried shall be conclusive evidence of that fact without proof of the number or proportion of votes recorded in favour of or against such resolution.
- (c) A demand for a poll may be withdrawn.
- 21 A poll, if demanded, shall be taken in such manner as the chairman thinks fit, and the result of the poll shall be deemed to be the resolution of the meeting at which such poll was demanded.
- 22 (a) All business shall be decided by a simple majority. In the case of equality in the votes, whenever on a show of hands or on a poll, the chairman of the meeting shall be entitled to a casting vote in addition to his deliberative vote.
- (b) In order to effect an amendment of or addition to this Constitution, a majority of 60% of the members present is required.

VOTES OF OWNERS

- 23 (a) On a show of hands, the Owner of the land shall have one vote for every Portion registered in his/her/its name.

- (b) The Developer shall have one vote for every Portion registered in his/her/its name, forming part of Scheme 1, plus one additional vote, which latter vote shall be effective until the Developer ceases to be a member of the HOA.
 - (c) In order to determine the number of votes due to the Developer, the number of Units transferred to purchasers shall be deducted from the number of Units approved for the Scheme, plus one.
- 24 On a show of hands or on a poll, votes may be given either personally or by proxy.
- 25 (a) An instrument appointing a proxy shall be in writing under the hand of the appointee or his agent and may be either general or for a particular meeting.
- (b) A proxy need not be an Owner.
- 26 No Owner shall be entitled to vote any General Meeting unless all contributions payable by him in respect of his Portion have been duly paid.

OBLIGATIONS. DUTIES & POWERS

- 27 Subject to any provision to the contrary contained in the conditions of approval of the Scheme by any local authority, the HOA shall, immediately upon its coming into being become responsible for the maintenance of the servitude roads on the Development, as well as any other common facilities, and all other costs, levies or imposts relating to these, which the Developer would otherwise be responsible for, as well as refuse removal, landscaping costs, fire protection and security.
- 28 Owners shall be called on by the committee to pay a monthly or annual levy for the purposes of the foregoing paragraph or any other purpose approved by General Meeting. Such levies shall be paid by the Owners within the time stipulated and any Owner in default may be sued for recovery thereof, by the HOA.
- 29 There shall be no alienation or inter vivos disposal of any Portion without the written consent of the HOA, but such consent will not be unreasonably withheld. It is recorded that this provision is to provide the HOA with a means of enforcing the provisions of the Constitution and not to exclude potential purchasers from Ownership. Such consent will not be given before and unless the new prospective purchaser has accepted the provisions of this Constitution, in its present form or as may be amended from time to time, by signing a copy thereof. Consent may further be withheld only in the event of:

- (a) the Owner failing to comply with the provisions of the Constitution or Rules of the HOA; or
 - (b) to pay levies or other monies owing to the HOA or in relation to the Portion; or
 - (c) failing to pay fines imposed by the HOA; or
 - (d) for similar reasons.
- 30
- (a) Building plans for all buildings and improvements on or in the Scheme must comply with the Architectural Guidelines.
 - (b) The guidelines are designed to create an aesthetically pleasing and harmonious environment.
 - (c) All building plans must be submitted by the Owner/s to the Developer or the HOA after its establishment and the local authority, for approval. Should such plans not conform to the said guidelines in the absolute discretion of the Developer/HOA (as described above), the Developer/HOA may reject the plans and the Owner concerned may not commence building operations before a set of plans has been approved by the Developer/HOA.
 - (d) The above conditions are applicable to all buildings to be erected in the Scheme. However, the Developer/HOA may waive certain aspects of the Architectural Guidelines as may be necessary in order to comply with building conditions applicable.

ARBITRATION

- 31
- (a) Every Owner agrees that should any dispute arise out of the Rules laid down in this Constitution the matter will be settled by arbitration.
 - (b) The arbitrator will be appointed by the committee with due regard as to the qualifications of the arbitrator related to the type of matter in dispute.

CONDUCT RULES

- 32
- The attached Rules shall be the first set of Conduct Rules applicable to all Owners of Units in the Scheme, and may from time to time be amended or added to by the Committee.

**HOMEOWNERS HOA
RULES**

HOMEOWNERS ASSOCIATION RULES

Definitions

Committee: The committee of the HOA as elected in terms of the Constitution;

Developer:

1. **AURELIA ANGELA KINCAID**
Identity Number: 650520 0019 08 3
Married out of Community of Property

and
2. **MARK KINCAID**
Identity Number: 600929 5315 08 4
Married out of community of property of
4 Port Place
Bloubergsands
7441

including his/her/its successors in title or assigns;

Scheme: The development scheme of the developer known as
Fairfields.

Portion/Unit: A subdivided portion in the scheme, including any building;

1. Maintenance levies

The committee will require funds to manage Scheme 1. The committee will consequently decide on an annual levy payable by each member towards such maintenance. The committee will provide an annual maintenance budget.

Animals, reptiles and birds

The following animals will be permitted:- dogs, cats, aviary birds, ducks, geese, chickens and rabbits.

1 Appearance, Nuisance, etc.

- (a) No Owner or occupier of a Portion, used for residential purposes, shall place any sign, notice billboard or advertisement of any kind whatsoever on any part of a Portion, so as to be visible from outside the Portion, without the written consent of the Committee first having been obtained.
- (b) All residents shall maintain their properties (buildings, outbuildings and gardens) in good condition and in a neat and tidy state at all times.
- (c) No Owner or occupant of a Portion may permit any of their possessions or the possessions of any of their household or any of their visitors, employees or invitees or any refuse or rubbish for the disposal of which they are responsible, to be left or remain anywhere on the remainder of erf 452.
- (d) No Owner or occupant may expose or otherwise make visible from any premises or elsewhere any washing or articles being aired or cleaned or any refuse, rubbish, or rubbish bin in a manner which the Committee may deem unsightly.
- (e) No Owner or occupant may permit anything to be done in such Portion or the remainder of erf 452 which constitutes a nuisance or an unreasonable invasion of the privacy of the other occupiers of the Scheme, or permit or make any disturbance or allow their children, guests, tenants, employees, or other persons for whom they are responsible, to make any disturbance or noise which in the opinion of the Committee, in their sole and absolute discretion, would constitute an invasion of the right of privacy of the other occupiers of the Units.

2 Damage, alterations or additions to the Common Property

Any Owner or occupier of a Portion shall not damage or alter any part the remainder of erf 452.

Environment

- (a) It is illegal to pick or uproot any plant, or to approach, disturb or kill any animal or bird, or to remove or disfigure any biological or archaeological material. Any person found doing so will be charged in terms of the relevant regulations and/or Ordinances. The Committee shall furthermore have the power to restrain such person by interdict.
- (b) Without the Committee's prior consent, no occupant may remove, relocate or in any manner whatsoever disrupt the indigenous fauna and flora on the remainder of erf 452 and no exotic plants, trees and shrubs may be introduced within the remainder of erf 452. Fruit and olive trees are however also permitted on any portion.
- (c) Diamond wire fencing of the outer perimeter of Units shall be permitted.

3 General Provisions

- (a) No more than 8 persons may occupy each Portion unless prior arrangements have been made with the Committee.
- (b) No caravans or tents are allowed without the prior approval of the Committee.
- (c) Residents are to respect the privacy of the other Owners/occupants of the Scheme.
- (d) No occupant may use a residential Portion for other than strictly residential purposes.
- (e) An Owner shall permit a Committee member or any other person authorised by the Committee to have access to the Portion for any reasonable purpose. Prior arrangements must be made by the Committee to the owner of the Portion.
- (f) Any Owner who allows their Portion to be occupied, let by any other party or who allows any other person, other than themselves, onto the property comprising the Scheme, whether they may be members of their family or invitees, shall solely be responsible for their conduct and shall be liable for any costs for damage to the remainder of erf 452, caused by any such party.

4 Letting of units

All tenants of Units and other persons granted rights of occupancy by any Owner of the relevant Portion, are obliged to comply with these conduct rules, notwithstanding any

provision to the contrary contained in any lease or any grant of rights of occupancy. If a casual tenant does not conform to these rules, the Committee may terminate that person's or party's occupation of the Portion.

5 Refuse disposal and littering

An Owner or occupier of a Portion shall:

- (a) maintain in an hygienic and dry condition, a receptacle for refuse within their Portion;
- (b) ensure that before refuse is placed in such receptacle it is securely wrapped or, in the case of tins or other containers, completely drained;
- (c) the disposal of refuse will be the Owners responsibility as there is no Municipal refuse collection service. The HOA can however, in future decide whether application to the Municipality for this service is necessary.
- (d) an Owner or occupier of a Portion shall not deposit, throw, or permit or allow to be deposited or thrown, on the remainder of erf 452 any rubbish, including dirt, cigarette butts, food scraps or any other litter whatsoever.

6 Storage of flammable material and other dangerous acts

- (a) An Owner or occupier shall not store any material, or do or permit or allow to be done, any other dangerous act in the Portion or remainder of erf 452 which will or may cause a fire or other hazard.
- (b) The Committee may restrict Owners and their guests regarding bringing firearms or other weapons onto the remainder of erf 452. At no time may firearms be used except for personal protection in emergency situations. No explosives or poisons other than domestic pesticides, will be allowed on the property which constitutes the Scheme.
- (c) Owners shall from time to time clear the area surrounding their dwellings of shrubs, wood and other flammable material so as to limit the danger of fire. The extent beyond the house to which such clearing may be done shall be indicated by the Committee.

7 Vehicles

- (a) No Owner or occupier shall be permitted to dismantle or effect major repairs to any vehicle on any Portion or on any part of the remainder of erf 452. All vehicles must keep to the designated roads. No vehicles may be driven on the tracks or hiking trails on the remainder of erf 452 without the prior consent of the Developer.

8 Subdivisions

No further subdivisions of the property, or of any portion, will be permitted. A restrictive title deed in this regard will be registered against each portion.

LIST of ACCEPTABLE TREE SPECIES for FAIRFIELDS

Note: This is a general list of trees acceptable for use at Fairfields. If a particular species is not listed here the name must first be submitted to Cape Nature Conservation for approval before it can be established on the property.

<u>Common Name</u>	<u>Botanical Name</u>
Breede River Yellowwood	Podocarpus elongatus
Henkels Yellowwood	Podocarpus henkeiff
Real Yellowwood	Podocarpus latifolius
Mountain Cedar	Widdringtonia nodiflora
White Stinkwood	Ceitra africana
Cape Fig	Ficus capensis
Wild Almond	Brabejum stellatifolium
Silver bottlebrush	Mimetes argenteus
Protea species	Protea species
Pincushions	Leucospermum species
Conebushes	Leucadendron species
Stinkwood	Ocotea bullata
Blue laurel	Cryptocarya latifolia
Wild clove-bush	Monifnia caryphyllacea
Witels	Cunonia trifoliatus
Rooiels	Cunonia capensis
Large-leaved cliffortia	Cliffortia grandifolia
Keurboom	Virgilia obovata
Water blossom pea	Podalyria calyptrata
Fountain bush	Psoralea pinnate
Cape chestnut	Calodendrum capense
Warty-fruited clutia	Clutia pulchella
Lance-leaf taaibos	Rhus angustifolia
Bostaaibos	Rhus chirindensis
Blue kuni-bush	Rhus glauca
Willow rhus	Rhus lancea
Wild currant	Rhus tomentosa
Kuni-bush	Rhus undulata
African holly	Ilex mitis
Silky bark	Maytenus acuminata
Mountain maytenus	Maytenus oleoides
Cherrywood	Pterocelastrus tricuspidatus
Mountain saffronwood	Cassine parvifolia
Bastard saffronwood	Cassine peragua
Spoonwood – Lepelhout	Hartogia schinoides
Rockwood	Heeria argentea
White pear	Apodytes dimidiata
Sand olive	Dodonaea viscosa
Needle hard-leaf	Phyllica villosa
Assegaai tree	Curtisia dentata
Water tree erica	Erica caffra
Honey tree erica	Edca caterviflora
Cape myrtle	Myrsine africana
Cape Beexh	Rapanea melanophloeos
Blueberry bush	Diospyros glabra
Bladdemut	Diospyros whyteana
Wild olive	Olea africana
Ironwood olive	Olea capensis
Witolienhout	Buddleia saligna

Sagewood
Notsung
Wild pomegranate
Rock alder
Waterwitels
White bristle bush
Wild peach

Buddleia saivifolia
Halleria lucida
Burchellia bubalina
Canthium mundianum
Brachylaena nerifolia
Metalasia muricata
Kiggelaria aficana