

Pepperwood

L I F E S T Y L E E S T A T E

CONSTITUTION

PEPPERWOOD LIFESTYLE ESTATE

HOME OWNER'S ASSOCIATION

1. Definitions
2. Name
3. Legal status
4. Objective
5. Main aim of the association
6. Authority
7. Conditions
8. Continued existence
9. Developer's rights reserved
10. Rights in the property or other assets of the organisation
11. Powers and obligations
12. Governance
13. Rules for convening and conducting meetings
14. Notices of meeting
15. Financial transactions
16. Financial & budgeted year
17. Procedure for changing the constitution
18. Members of the association
19. Voting rights of members
20. Levies
21. Rules & regulations
22. Trustees
23. General meetings
24. Auditor
25. Non-profit distributing character
26. Income and assets

Pepperwood

L I F E S T Y L E E S T A T E

1. DEFINITIONS

The following words shall, unless otherwise implied, have the following meaning:

- 1.1 Wording in the singular form shall include the plural form, and vice versa.
- 1.2 Reference to any gender shall include the other gender.
- 1.3 The headings in this document are only for reference purposes and not interpretation of the document as a whole.
- 1.4 "General Meeting" means a meeting of the Members of the Association, where 14 days notification is given and where any decisions for approval are presented.
- 1.5 "Management Committee" means the trustee committee which was chosen at the Annual General Meeting.
- 1.6 "Owner" means the registered owner of the erf.
- 1.7 "General decision" means a decision taken by at least 50% of the Quorum present at the General meeting.
- 1.8 "Constitution" means the constitution of the association.
- 1.9 "Annual general meeting" means a General meeting which is to be held once a year. The financial statements of the previous year are discussed and a new management committee is chosen.
- 1.10 "Member" means a member of the association.
- 1.11 "Developer" means Beadica 346 cc
- 1.12 "Auditor" means the auditor or bookkeeper which, according to this constitution is appointed by the association.
- 1.13 "Special decision" means a decision made by at least 75% of the quorum present at the general meeting.
- 1.14 "Association" means the PEPPERWOOD LIFESTYLE ESTATE HOME OWNERS ASSOCIATION.
- 1.15 "Chairman" means the chairman of the management committee, appointed according to constitution.
- 1.16 "Dwelling unit" means every property and the development of each property in the PEPPERWOOD LIFESTYLE ESTATE housing development.

Pepperwood

L I F E S T Y L E E S T A T E

- 1.17 “Development Period” the period from the incorporation of the Association until all the erven within the Development Area have been sold and transferred to third parties by the Developer; alternatively, until the Developer notifies the Association that it waives the rights herein conferred upon it during the Development Period.

2. NAME

- 2.1 The name of the association is PEPPERWOOD LIFESTYLE ESTATE HOME OWNERS' ASSOCIATION
- 2.2 The name of the association in another official language of the RSA is PEPPERWOOD LIFESTYLE ESTATE HUISEIENAARS VERENIGING
- 2.3 Die shortened name of the association is PLEHOA.

3. LEGAL STATUS

The Association is incorporated in terms of Sect.29 of the Land Use Planning Ordinance (No.15/1985). The date of incorporation shall be the date upon which the first transfer of an erf in the Development Area is registered in the Deeds Office. The Association has

- 3.1 legal personality, separate from its Members; and;
- 3.2 No Member shall have any claim to its Assets which shall vest in the Association, controlled and managed by the Committee in terms of this Constitution; and
- 3.3 The Association is incorporated not for profit, but for the benefit of its Members; and;
- 3.4 Has the right to acquire, hold, lease, alienate, pledge and mortgage movable and immovable property.
- 3.5 The organisation shall be able to sue and be sued in its own name.

4. OBJECTIVE

The Main Objectives of the Association are to promote and manage the communal interests of its Members and, include but are not limited to:

- 4.1 Own, maintain and ensure the upkeep and control of the Common Area and any improvements thereon, including all services within the Common Area;
- 4.2 Ensure that all municipal and related services are supplied to the Estate;
- 4.3 Ensure compliance by all Members of the Establishment and Township Conditions imposed by the Local Authority when approving the Estate Development in so far as those conditions impose such a duty on the Association;

Pepperwood

L I F E S T Y L E E S T A T E

- 4.4 Adopt and enforce such Title and other Conditions imposed by the Developer in any first Deed of Sale and /or transfer for the benefit of the Association and its Members to ensure the good and orderly governance and financial health of the Association;
- 4.5 Determine and enforce aesthetic and environmental standards and controls as defined above, which shall include but not be limited to compliance by all Members of the Establishment and Township Conditions imposed by the Local Authority when approving the Estate Development.
- 4.6 Determine and enforce the Architectural Guidelines and aesthetic requirements as determined by the developer, at any time during the development period, of every house and to preserve the residential character of the Estate.

5. **MAIN AIM OF THE ASSOCIATION**

To enhance and manage the interests of the PEPPERWOOD LIFESTYLE ESTATE community.

6. **AUTHORITY**

The authority of the association will be as determined by the general meeting from time to time.

7. **CONDITIONS**

The income and assets of the association shall only be used to finance the main aim of the association.

8. **CONTINUED EXISTENCE**

The HOA will continue to exist even when its membership changes and there are different office bearers.

9. **DEVELOPER'S RIGHTS RESERVED**

- 9.1 The Developer has the right at any time to extend or alter the composition of Pepperwood Lifestyle Estate and to add any further land purchased;
- 9.2 Neither the Association nor any Member shall be entitled to object to the subdivision and/or development of any part of the Estate provided that such subdivision and/or development is not inconsistent with the development plan approved by the relevant authorities for that part of the Development Area;
- 9.3 no erf or unit shall be sub-divided or rezoned during the Development Period without the prior written consent of the Developer or without the prior written consent of the

Pepperwood

L I F E S T Y L E E S T A T E

Association after the termination of the Development Period; Subdivision or Rezoning must also be approved by the local authority.

- 9.4 Ownership of an erf does not confer any right, including that of access, in respect of property owned by the Developer including any right of way or access across such property; the Association and all Members acknowledge and agree that the Developer, its successor/s in title and its employees have certain rights, including: rights of access across property owned by the Association and across the land, the right to develop other areas in the Development Area in the future, and also the right to share various services.

10. **RIGHTS IN THE PROPERTY OR OTHER ASSETS OF THE ORGANISATION**

Members or office bearers of the organisation do not have rights over things that belong to the organisation.

11. **POWERS AND OBLIGATIONS**

The management committee may take on the power and authority that it believes it needs to be able to achieve the objectives of the organisation. The Association shall have all such powers do all things and perform all such acts as are required and necessary to give effect to all the provisions and stipulations of this Constitution. Without limiting the generality of the above, the Association is empowered to formulate and enforce rules and regulations to:

- 11.1 determine and impose levies to meet all expenses of the Association;
- 11.2 determine and impose fines on Members who are in default of any provision of this Constitution, more in particular, of
 - 11.2.1 any and all of the Developer's aesthetic & green zone guidelines;
 - 11.2.1 any and all of the Rules & regulations;
 - 11.2.2 and the due payment of any levy or special levy lawfully imposed.

Pepperwood

L I F E S T Y L E E S T A T E

12. GOVERNANCE

The trustees will manage the organization and may appoint a qualified managing agent.

13. RULES FOR CONVENING AND CONDUCTING MEETINGS

13.1 Meetings and procedures of the committee

An AGM shall be held at least 2 months before the end of the financial year.

The chairperson, or two members of the committee, can call a special meeting if they want to. But they must let the other trustee committee members know the date of the proposed meeting not less than 21 days before it is due to take place. They must also tell the other members of the committee which issues will be discussed at the meeting. If, however, one of the matters to be discussed is to appoint a new trustee committee member, then those calling the meeting must give the other committee members not less than 30 days notice.

The chairperson shall act as the chairperson of the trustee committee. If the chairperson does not attend a meeting, then members of the committee who are present choose which one of them will chair that meeting. This must be done before the meeting starts.

There shall be a quorum whenever such a trustee meeting or general meeting is held.

If the trustee committee thinks it is necessary, then it can decide to set up one or more sub-committees. It may decide to do this to get some work done quickly. Or it may want a sub-committee to do an inquiry, for example. There must be at least two (2) people on a sub-committee. The sub-committee must report back to the trustee committee on its activities.

Minutes of all meetings must be kept safely and always be on hand for members to consult.

13.2 Quorum

50% quorum for trustee meetings.

25% quorum for general meetings.

No business shall be transacted at a general meeting unless a quorum is present both when the meeting proceeds to business and when any resolution is to be passed. Save as herein otherwise provided, 25% (twenty five per centum) of the members present in person or by proxy shall constitute a quorum, provided that at least 3 (three) members are present in person at such meeting and provided that during the development period, at least 1 (one) representative of the developer is present at such meeting.

If within 15 (fifteen) minutes after the time appointed for the commencement of a general meeting or within such extended period as the chairman of the board, or in his absence, the deputy chairman, may allow, a quorum is not present, the meeting shall be dissolved as if it was convened on requisition. In all other cases, the meeting shall stand adjourned to the same place at the same time on the same day of the next week (or if that day is not a business

Pepperwood

L I F E S T Y L E E S T A T E

day, the first business day following that non-business day) or to such other place, time and day as the board may determine. If a quorum is not present at such adjourned meeting, the members present shall constitute a quorum.

13.3 **Decisions and voting**

A non-luxurious decision shall be made by a majority show of hands.
A luxurious decision shall be made by a 75% vote or show of hands.

14 **NOTICES OF MEETINGS**

- 14.1 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 shall 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 served 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 Association in general meeting, to such persons as are, under these articles, entitled to receive such notices from the Association; provided that a meeting of the Association shall notwithstanding the fact that it is called by shorter notice than that specified in this article, be deemed to have been duly called if it is so agreed by not less than 51% (fifty-one per centum) of the members having a right to attend and vote at the meeting.
- 14.2 The annual general meeting shall deal with and dispose of all matters prescribed by the Companies Act, the consideration of the annual financial statements, the election of trustees, the noting of the levy for the financial year during which such annual general meeting takes place, the appointment of an auditor, and may deal with any other business laid before it. All business laid before any other general meeting shall be considered special business.
- 14.3 All points to be placed on an AGM agenda must be received at least 14 (fourteen) days before the meeting is to take place and this final agenda will be sent out at least 7 (seven) days before the AGM.

15. **FINANCIAL TRANSACTIONS**

The organisations financial transactions shall be conducted by means of a banking account.

16. **FINANCIAL & BUDGETED YEAR**

The financial & budgeted year of the organisation ends on 28 February each year.

Pepperwood

L I F E S T Y L E E S T A T E

17. **PROCEDURE FOR CHANGING THE CONSTITUTION**

The constitution can be changed by a resolution. The resolution has to be agreed upon and passed by not less than 75% of the members who are at the annual general meeting or special general meeting. Members must vote at this meeting to change the constitution.

Two thirds of the members shall be present at a meeting ('the quorum') before a decision to change the constitution is taken. Any annual general meeting may vote upon such a notion, if the details of the changes are set out in the notice referred to in the previous paragraph.

A written notice must go out not less than fourteen (14) days before the meeting at which the changes to the constitution are going to be proposed. The notice must indicate the proposed changes to the constitution that will be discussed at the meeting.

18. **MEMBERS OF THE ASSOCIATION**

- 18.1 The names and other details as per annexure hereafter stated, are the founders of the association.
- 18.2 Should a member sell his property, the member undertakes to stipulate in the contract that the sale is subject to the purchaser becoming a member of the association.
- 18.3 In cases of joint ownership, the registered owner/s are deemed as one member of the association (one member per dwelling unit) although all joint owners are deemed jointly and severally liable for any responsibilities to the association.
- 18.4 In cases where the property is registered in the name of a Trust or Legal entity, the registered owner/s are deemed as one member of the association (one member per dwelling unit) although all joint owners are deemed jointly and severally liable for any responsibilities to the association.
- 18.5 An owner of a dwelling unit shall "ipso facto" be a member of the association until he is no longer an owner of a dwelling unit.
- 18.6 An owner of a dwelling unit may not rent or give occupation to another party unless the party receiving occupation is bound by the rules and regulations of the association.
- 18.7 The owner of a dwelling unit may not resign as a member of the association.
- 18.8 The rights and responsibility of the owners is not transferable and a member shall always carry out the goals and interests of the association to the best of his abilities.

Pepperwood

L I F E S T Y L E E S T A T E

19. VOTING RIGHTS OF MEMBERS

- 19.1 Members shall be entitled to vote only on the matters raised at every general meeting;
- 19.2 At every general meeting;
- 19.3 each member, present in person or by proxy and entitled to one (1) vote;
- 19.4 during the development period, the developer shall be entitled to 1 (one) times the total number of votes of all the other members of the Association;
- 19.5 Save as expressly provided for in this articles, no person other than a member and who shall have paid every levy and other sum (if any) which shall be due and payable to the Association in respect of or arising out of his membership and who is not suspended, shall be entitled to be present or to vote on a question, either personally or by proxy, at any general meeting;
- 19.6 Voting at general meetings shall take place by way of a show of hands unless on or before the declaration of the result of the show of hands a poll is demanded according to law;
- 19.7 Resolutions shall be passed by simple majority vote, save with respect to amendments of this Constitution, as provided for in clause 17 hereof;
- 19.8 If a poll is duly demanded, it shall be taken in such manner as the chairman of the meeting may direct either at once or after an interval or adjournment;
- 19.9 If any difficulty or dispute arises regarding the admission or rejection of a vote or regarding any other matter, such difficulty or dispute is to be determined by the chairman whether or not scrutinizers have been appointed to count the votes and his decision shall be final and conclusive;
- 19.10 A vote cast under a proxy, power of attorney, or other authority which has been revoked shall nevertheless be valid unless;
- 19.11 written notice of the revocation is received by the Association prior to the meeting concerned;
- 19.12 the chairman of the meeting agrees to accept written or oral notice of such revocation at the meeting;
- 19.13 No objection shall be raised to the admissibility of any vote except at the meeting or adjourned meeting at which the vote objected to in cast and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting, whose decision shall be final and conclusive;
- 19.14 A declaration made in good faith by the chairman of a general meeting to the effect that, either on a show of hands or a poll, a resolution has or has not been passed (whether by a simple majority, a specific majority or unanimously) shall be final and conclusive and the resolution shall be deemed to have been so passed or not passed, as the case may be.

Pepperwood

L I F E S T Y L E E S T A T E

20. LEVIES

- 20.1 The trustee committee can from time to time determine the levies payable to cover the expenses of the association.
- 20.2 The trustee committee shall no later than 30 days before the end of the financial year, supply each member with a motivation as well as the expected levy for the following financial year. Should the trustee committee neglect to do so then the previous year's levy will be put forward.
- 20.3 All levies shall be due and payable in advance in equal instalments commencing on the first day of each month or quarter, as decided by trustees, of such financial year and thereafter on the first day of each succeeding period.
- 20.4 Special levies can be payable from time to time, but it must be handled as a special decision.
- 20.5 The management committee may claim interest and administrative costs from a member should the members levies not be paid on time.
- 20.6 The Trustees may, in such determination of levies for any particular financial year, include an amount to be held in reserve to meet any anticipated future expenditure of a non-recurring nature. The developer shall be exempt from contributing to a reserve fund.
- 20.7 In calculating any levy payable by Members, the Trustees shall, as far as reasonably practical, assign such levies to Members equally provided, however, that the Trustees may in any instance where they consider it equitable to do so, assign to any Member any greater or lesser share of such expenses as may be reasonable in the circumstances.
- 20.8 No levies paid by a Member shall under any circumstances be repayable by the Association upon termination of his membership. A Member's successor in title to an erf shall, as from the date upon which he becomes a Member pursuant to the transfer of that erf into his name, be liable to pay the levies attributable to that erf.
- 20.9 No Member shall be entitled to any of the privileges of membership of the Association unless and until he shall have paid all levies due and payable to the Association in respect of his membership.

Pepperwood

L I F E S T Y L E E S T A T E

21 RULES AND REGULATIONS

The rules of the association shall be determined / amended from time to time by means of a general meeting.

22 TRUSTEE COMMITTEE

- 22.1 The trustee committee shall be appointed at the annual general meeting by means of a general decision and shall consist of at least 5 (five) members, and not more than 8 (eight).
- 22.2 The trustee committee shall within 14 days of the annual general meeting appoint a Chairman and other official positions as required to carry out the necessary responsibilities.
- 22.3 The authorities of the management committee shall be as determined by a general decision at a general meeting.
- 22.4 Members can call a general meeting with the request that a member be relieved of his position on the management committee. A general decision is required to remove a member from the management committee.
- 22.5 The trustee committee can nominate a member should there be a vacancy on the trustee committee.
- 22.6 The Developer shall appoint the first Trustees on incorporation of the Association. Member Trustees shall be appointed by the Developer after due consultation with the Members. The developer or its representative will act as the chairman during the development period and remain a trustee during the development period.

23 GENERAL MEETINGS

- 23.1 The trustee committee or 5 (five) members can request a general meeting.
- 23.2 The trustee committee are required to arrange the annual general meeting.
- 23.3 Notification of a general meeting must be given in writing or electronically to each member, 14 (fourteen) days prior to the date of the meeting.
- 23.4 The notification of the general meeting must have an agenda attached and any amendments must be clearly marked.
- 23.5 Meetings must have a quorum of 25% of the members of the association.
- 23.6 Members may use power of attorneys/ proxy for voting at a general meeting as provided by the trustees prior to a meeting.

Pepperwood

L I F E S T Y L E E S T A T E

24. AUDITOR

The members can decide if they wish to appoint an auditor or bookkeeper. If not, the management committee can decide how they wish to handle the books of the association.

25. NON-PROFIT DISTRIBUTING CHARACTER

- 25.1 The income and property of the Association shall be used solely for the promotion of its stated objectives. No portion of the income or property of the Association shall be paid or distributed directly or indirectly to any person (otherwise than in the ordinary course of undertaking any public benefit activity) or to any member of the Association or Management Committee, except as:
 - 25.2 reasonable compensation for services actually rendered to the Association;
 - 25.3 reimbursement of actual costs or expenses reasonably incurred on behalf of the Association.
 - 25.4 Upon the dissolution of the Association, after all debts and commitments have been paid, any remaining assets shall not be paid to or distributed amongst members, but shall be transferred by donation to some other non-profit organisation which the Management Committee (and failing which any division of the High Court) considers appropriate and which:
 - 25.5 has objectives the same or similar to the objectives of the Association; and
 - 25.6 should the Association be exempt from the payment of any taxes and duties, is also exempt from the same taxes and duties.
 - 25.7 The Association intends to apply to the South African Revenue Services for exemption from appropriate taxes and duties.

26. INCOME AND ASSETS

The organisation may not give any of its money or assets to its members or office bearers. The only time it can do this is when it pays for work that a member or office bearer has done for the organisation. The payment must be a reasonable amount for the work that has been done.