



PREAMBLE AND MISSION STATEMENT

We the members of the Hermanus Ratepayers Association, are determined to preserve the character and natural beauty of Hermanus. As a watchdog we shall seek close co-operation with the Local Authority to ensure that future developments are in keeping with the spirit of this statement and that municipal services are carried out in an economic, effective, efficient, transparent and accountable manner.

CONSTITUTION

HERMANUS RATEPAYERS ASSOCIATION

1. ESTABLISHMENT IN TERMS OF STATUTE

The Hermanus Ratepayers Association is constituted as a Public Benefit Organisation in terms of Section 30 of the Income Tax Act No. 58 of 1962.

2. INTERPRETATION

In this Constitution the following words shall have the following meanings assigned to them, unless otherwise determined by the context:

- a. "AGM" means the Annual General Meeting of the Hermanus Ratepayers Association.
- b. "Committee" means the Executive Committee of the Hermanus Ratepayers Association.
- c. "Day" means a calendar day unless otherwise stated.
- d. "Financial Year" means the financial year of the Hermanus Ratepayers Association which starts on 1 January each year and ends on 31 December of the same year.
- e. "Geographic Area" means the Hermanus suburbs of Voëlklip, Fernkloof, Kwaiwater, Eastcliff, Hermanus Heights, the CBD, Northcliff, Westcliff, Westdene, the Industrial Area and Mount Pleasant.

- f. "HRA" means the Hermanus Ratepayers Association.
- g. "Local Authority" means the Overstrand Municipality.
- h. "Member" means those ratepayers who are entitled to be members of the Hermanus Ratepayers Association in terms of clause 5 hereof.
- i. "PBO" means a Public Benefit Organisation as set out in Section 30 of the Income Tax Act No. 58 of 1962.
- j. "SGM" means a Special General Meeting of the Hermanus Ratepayers Association.
- k. "Virtual meeting": In keeping with, and recognition of technological advancements, and the prevalence of the Covid-19 pandemic, provision is made herein for virtual meetings to be held either virtually(online) or by email, and "virtual meeting" shall have this meaning.
- l. "Year" means a calendar year.

3. MAIN BUSINESS

- a. The main business of the HRA is to represent the Ratepayers of the Overstrand, to promote, advance, and protect their common interests in the Geographic Area and to participate in the Ward Committees associated with the suburbs listed in the definition of the Geographic Area.
- b. The HRA is a *universitas* with full legal status, capable of owning movable or immovable property and acquiring rights and obligations in its own name and of suing and being sued in its own name.
- c. The activities of the HRA shall be carried on in a non-profit manner and with an altruistic or philanthropic intent.
- d. No activity of the HRA will directly or indirectly promote the economic self-interest of any fiduciary or employee of the HRA otherwise than by way of reasonable remuneration.
- e. At least three persons who accept fiduciary responsibility for the HRA, will not be connected persons in relation to each other, and no single person directly or indirectly controls the decision-making powers relating to such organisation.
- f. No funds will be distributed to any person (other than in the course of undertaking any public benefit activity).
- g. The funds of the HRA will be used solely for the objects for which it was established.
- h. On dissolution of the HRA the remaining assets must be transferred to a public benefit organisation which has been approved in terms of Section 30 of the Income Tax Act No. 58 of 1962 (the Act); any institution, board or body which is exempt from the payment of income tax in terms of Section 10(1)(cA)(i) of the Act, which has as its sole or principal object the carrying on of any public benefit activity; or any

department of state or administration in the national or provincial or local sphere of government of the republic, as contemplated in section 10(1)(a) or (b) of the Act.

- i. A copy of all amendments to the Constitution will be submitted to the Commissioner for the South African Revenue Service.
- j. No donation will be accepted which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of Section 18A of the Act: Provided that a donor (other than a donor which is an approved public benefit organisation or an institution, board or body which is exempt from tax in terms of Section 10(1)(cA)(i), which has as its sole or principal object the carrying on of any public benefit activity) may not impose any conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation.
- k. No remuneration will be paid to any employee, office bearer, member or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered and has not and will not economically benefit any person in a manner which is not consistent with its objects.
- l. No resources will be used, directly or indirectly, to support advance or oppose any political party.

4. MAIN OBJECTS

The main objects of the HRA are:

- a. To promote the interest and involvement of Ratepayers and *bona fide* lessees of property in matters of the Local Authority.
- b. To protect and preserve the traditional character and beauty of Hermanus and its environs.
- c. To act as a conduit for Ratepayers' views to the relevant authority.
- d. To ensure that municipal services are provided in terms of section 195 of the Constitution of South Africa and section 38(c) of the Municipal Systems Act of 2000, as amended, in an economic, effective, efficient, transparent and accountable manner.
- e. To promote the interests of Hermanus in close co-operation with the Local Authority and other ratepayer associations.
- f. To ensure that the HRA's motives and actions are transparent, apolitical and consistent with its Mission Statement.

5. MEMBERSHIP OF THE HRA

- a. Subject to the provisions of this Clause, membership of the HRA shall be available to all persons over the age of eighteen years, who support the HRA's Constitution and own property in the Geographic Area; persons who are *bona fide* lessees of property in the Geographic Area; the spouses or partners of such owners or lessees; corporate bodies or trusts which own or lease property in the Geographical Area.
- b. A person, corporate body or trust may only exercise membership rights if membership fees are fully paid before the commencement of a voting process.
- c. No person shall by virtue of his interest in a corporate body or trust, or for any other reason, obtain dual membership entitling him/her to more than a single vote.
- d. Where the owner of a property is a corporate body or trust, the corporate body or trust shall nominate a person who shall represent such corporate body or trust at meetings of the HRA and who shall be entitled to vote on its behalf.

6. ANNUAL SUBSCRIPTION FEES AND VOTING RIGHTS

Subscription fees are determined, from time to time, by the HRA Executive Committee. In order to qualify for a voting right each member shall:

- a. Complete the HRA application form,
- b. Pay an annual subscription in advance in January of each year,
- c. Lodge documentation in proof of a person's nomination as representative of corporate bodies or trusts.
- d. A member who pays his/her subscription after January shall pay the full membership fee for that year.
- e. Only paid-up members of the HRA shall be allowed to vote at any of the HRA meetings.

7. ELECTION OF EXECUTIVE COMMITTEE MEMBERS

- a. Committee members shall be elected at an AGM to serve for three years on the Committee.
- b. Retiring members may offer themselves for re-election for a further term of two years.
- c. Candidates standing for election to the Committee shall be nominated in a written document, signed by two Committee members as proposer and seconder.
- d. The written nominations together with the letter of acceptance shall be lodged with the Secretary, failing whom, with the Chairperson, at least ten days before the date of the AGM.

- e. Candidates shall accept their nomination in writing.
- f. No Councillor or employee currently serving in the Local Authority may be appointed or elected to the Committee.
- g. If more nominations are submitted than existing vacancies, an election shall be held by ballot at the AGM.
- h. A Committee member, who by reason of having submitted or been awarded a tender for consulting with, or contracting to the Local Authority, and/or who receives or expects to receive some benefit or remuneration from the Local Authority (except for Ward Committee re-imbursments), shall immediately notify the Committee in writing of such conflict of interest and shall resign from the Committee. Should the conflict of interest situation no longer exist, the Committee, on receiving written notification to this effect, may at its discretion co-opt the member back on to the Committee.

8. ROLE OF THE EXECUTIVE COMMITTEE

- a. The management and control of the HRA is vested in an Executive Committee. which shall have full power to take whatever steps it considers necessary in pursuance of the main objects of the HRA, as outlined in clause 4 above.
- b. The Committee shall consist of no more than twelve members. The Committee shall elect a Chairperson and a Treasurer from its members to serve until the next AGM. The election of a Vice-Chairperson shall be at the discretion of the Committee.
- c. The Committee shall appoint a Secretary for the HRA on terms agreed to by both parties from time to time.
- d. The Committee may appoint a member or members to fill any vacancy on the Committee that may occur during the year. Such appointments shall only extend until the next AGM.
- e. The Committee may co-opt members and/or appoint sub-committees of members for specific duties or to make specialist contributions, for such a period as the Committee may decide, but for a period no longer than until the next AGM.
- f. The Committee shall decide on how the funds of the HRA are to be invested.
- g. The Committee shall receive and consider members' suggestions and complaints.
- h. The Committee may appoint members to represent it at meetings or functions of other institutions.

9. ROLE OF THE TREASURER

- a. The Treasurer shall submit quarterly statements of receipts and payments to the Committee.
- b. All drawings incurred in respect of necessary expenses shall be in accordance with the limits of authority policy approved by the Committee.

- c. Annual financial statements shall be prepared by the Treasurer and separately checked and signed by the Chairperson, who shall vouch that to the best of their knowledge and belief, that these fairly present the financial position of the HRA and the results of its operations for the year then ended.

10. COMMITTEE MEETINGS

- a. The Committee shall meet at least once per month to transact the business of the HRA.
- b. Special meetings of the Committee may be called by the Chairperson or on request of at least three Committee members.
- c. Fifty percent of Committee members shall form a quorum.
- d. A Committee member who absents himself from three consecutive Committee meetings without apology shall cease to be a member of the Committee.

11. RULES TO BE OBSERVED AT COMMITTEE MEETINGS

The Committee may, with the approval of two-thirds of its members present, make rules of procedure.

12. DUTIES AND POWERS OF THE CHAIRPERSON

- a. The Chairperson shall, at meetings, have a deliberative vote and, in the event of an equality of votes, may exercise a casting vote.
- b. In the event of the absence of the Chairperson from a meeting, the meeting must appoint a Chairperson for that meeting only.

13. LIABILITY OF COMMITTEE MEMBERS

- a. No member of the Executive Committee shall be liable to the HRA or to any of its members or third parties for any loss or damage arising directly or indirectly out of, or flowing from any act or omission of the HRA or its Committee members, unless same was caused by bad faith or gross negligence of that Committee member.
- b. The HRA shall indemnify and hold harmless all Executive Committee members in respect of any loss or damage arising either directly or indirectly out of, or flowing from any act or omission on the part of an Executive Committee member carried out in the course and scope of his/her activities as a Committee member, unless same was caused by bad faith or gross negligence.
- c. The liability of any member of the HRA is limited to the amount payable by that member in terms of its annual subscription.

14. REPRESENTATION OF THE HRA ON THE WARD COMMITTEE SYSTEM

The Committee will nominate a committee member and a *secundus* to represent the HRA on each of the Ward Committees on which the HRA is represented.

15. ANNUAL GENERAL MEETINGS

- a. The AGM of the HRA shall be held not later than 31 March each year, unless circumstances necessitate a change of date.
- b. Notice of the date, time and place of the AGM, or only the date, time and procedural instructions in the case of a virtual or email-based AGM, together with an Agenda for the meeting and a copy of the Minutes of the previous AGM and of the Chairperson's Report, shall be sent to all members at least twenty-one days prior to the meeting. The meeting may also be advertised in the press and/or in such other manner as the Committee deems fit.
- c. Fifteen members either physically present, or present at a virtual meeting, or respondents to an email, shall form a quorum at an AGM. If there is no quorum the meeting cannot proceed and must, there and then, be postponed to a date at least one week hence, and no more than three weeks hence, when it will reconvene as a Postponed AGM. All members will be notified of the date, time and place of the Postponed AGM within five days of the Proposed AGM in such manner as the Committee deems adequate.
- d. Once an AGM has been found to have a quorum and the meeting has been commenced, either physically, or virtually, or by email, the transaction of business may continue regardless of whether or not the specified number of members forming that quorum remains present.
- e. If no quorum of members is present after the lapse of ten minutes after the time appointed for a physical or a virtual meeting, the meeting shall continue with the members present forming a quorum, and those members present shall transact the business for which the meeting was originally called.
- f. The report by the Chairperson and the annual financial statements for the past year shall be submitted for acceptance by those members present at the AGM.
- g. The annual financial statements, if accepted by the members attending the AGM, will not be required to be submitted for audit; if not accepted, the members present shall decide upon and appoint an auditor, and the accounts shall be submitted to the appointed auditor for auditing.

16. SPECIAL GENERAL MEETINGS

- a. An SGM may be convened at any time by the Committee or on receipt of a written request signed by at least fifteen members.
- b. Notice of the date, time and place, or the date, time and procedural instructions in the case of a virtual or email-based SGM, and of the specific business to be

transacted, shall be given at least fourteen days before the meeting, in such manner as the Committee deems adequate.

- c. Fifteen members either physically present, or present at a virtual meeting, or respondents to an email, shall form a quorum at an SGM. If there is no quorum the meeting cannot proceed and must, there and then, be postponed to a date at least one week hence, and no more than three weeks hence, when it will reconvene as a Postponed SGM. All members will be notified of the date, time, and place of the Postponed SGM within five days of the Proposed SGM in such manner as the Committee deems adequate.
- d. Once an SGM has been found to have a quorum and the meeting has been commenced, either physically, or virtually, or by email, transaction of business may continue, regardless of whether or not the specified number of members forming that quorum remains present.
- e. If no quorum of members is present after the lapse of ten minutes after the time appointed for a physical, or a virtual meeting, and respondents to an email the meeting shall continue with the members present forming a quorum and shall transact the business for which the meeting was originally called.
- f. The business transacted at an SGM shall be restricted to the business set out in the notice of the meeting.

17. OTHER GENERAL MEETINGS

- a. The Committee shall arrange report back meetings and/or newsletters as and when deemed necessary.
- b. Notice of such meetings shall be given to members in such manner as the Committee deems reasonably adequate.
- c. Those members either physically present, or present at a virtual meeting, or respondents to an email, shall form a quorum.

18. PROXY VOTES

The name of a proxy shall be submitted in writing and signed by the appointer or his/her duly authorised agent to the office of the HRA not less than forty-eight hours prior to the meeting at which the proxy who has been named proposes to vote.

19. POSTAL VOTES

No provision is made for postal voting and accordingly postal votes will not be accepted.

20. AMENDMENT OF THE CONSTITUTION

- a. Any member wishing to propose an amendment to the Constitution shall submit its proposal to the Secretary, failing whom the Chairperson, in writing by no later than thirty days prior to the AGM or an SGM. Such a proposal shall be signed by at least two additional members.
- b. The Committee may submit proposals for amendments to the Constitution to the AGM or to an SGM convened for that purpose.
- c. No amendment to the Constitution shall be made without the consent of at least two-thirds of the members present at the AGM, the SGM, or at the Postponed AGM or Postponed SGM convened for that purpose.

Amended: July 2020

Amended:

DRAFT