

# Emerald Bay

## BODY CORPORATE

No. SS11/1996

### Conduct Rules

(section 10(2)(b) of the Sectional Titles Schemes Management Act No. 8 of 2011)

#### Index

Rule Heading	Page
1. Preliminary	2
2. Binding nature	2
3. Definitions and Interpretation	2
4. Directives	3
5. Guidelines	3
6. Animals, reptiles and birds	3
7. Refuse disposal	4
8. Vehicles	4
9. Damage, alterations, devices, additions, and attachments to the common property or to the exterior of a building, renovations to sections, alterations to pipes, wires, cables and ducts in respect of a section, structural alterations, maintenance and access	5
10. Standardization of canopies, awnings, and sunscreens on patios, stoeps and balconies	8
11. Appearance from outside	9
12. Signs and notices	9
13. Littering	9
14. Laundry	9
15. Storage of inflammable material and other dangerous acts	9
16. Sale, letting and related matters	10
17. Occupancy, use of sections and related matters	11
18. Eradication of pests	12
19. Noise and nuisance	12
20. Use of sections, common property, and facilities	12
21. Use of swimming pool and braai areas	13
22. Braaiing	13
23. Using the lifts	13
24. Gardens	14
25. Domestic employees	14
26. Body corporate employees	14
27. Damage	14
28. Risk	14
29. Breach	14
30. Imposition of penalties	15
31. Complaints	16
32. Notices	16
33. Written consent	17
34. Insurance excess payment	17
35. Relaxation of rules	17
36. Creation and allocation of a right of exclusive use of a part of the common property (patio)	17

**1. Preliminary**

These rules contained in this Annexure shall not be added to, amended, or repealed except in accordance with section 10(2)(b) of the Act.

**2. Binding nature**

The provisions of these rules, the Management Rules and the Act, and the duties of an owner of a section in relation to the use and occupation of his section and the common property shall be binding on the owner, lessee, or other occupant of his section. It shall be the duty of the owner of the section to ensure compliance with these rules, the Management Rules and the Act by the lessee or occupiers of his section, including by the family members, guests, visitors, domestic employees, contractors or other invitees of the owner, lessee, or occupiers of his section.

**3. Definitions and Interpretation**

1) In the interpretation of these rules, unless the context otherwise indicates:

- a) 'Act' means the Sectional Titles Schemes Management Act, 2011 (Act 8 of 2011) as amended from time to time, and any regulations made and in force thereunder;
- b) 'building' means any building in the scheme;
- c) 'contractor' means any artisan, builder, electrician, plumber, or other person appointed by an owner or occupier;
- d) 'guidelines' means the design and building guidelines referred to in conduct rule 5;
- e) 'local authority' means the City of Cape Town or its successors in title;
- f) 'nuisance' means any act, omission or condition, which in the opinion of the trustees is offensive, injurious or dangerous to health, reasonably interferes with the ordinary comfort, convenience, peace or quiet of owners or occupiers of sections, or which adversely affects the safety of owners or occupiers of sections, having regard to the reasonableness of the activities in question in the section or on the exclusive use area concerned or on the common property, and the impact which result from these activities, and the noise related to these activities;
- g) 'occupier' means the occupant, lessee, or resident of a section;
- h) 'owner' means the registered owner of a section, being a member of the body corporate;
- i) 'premises' means the land and buildings comprising the scheme;
- j) 'renovation' means an internal redecoration or refurbishment of the existing décor or interior of a section, including the replacement, removal, or creation of internal fittings such as kitchen and other cupboards), sanitary ware, and floor coverings;
- k) 'structural alteration' means an alteration which is of a permanent nature and which alters the form, structure or essential framework of a building on the inside or the outside thereof, and for the purposes of these rules the following alterations shall be regarded as structural alterations:
  - i) the removal, reconstruction and/or construction of a wall or part thereof;
  - ii) the removal, reconstruction and/or the construction of a building or building improvement;
  - iii) the enclosing or partial enclosing of a balcony, patio, stoep, terrace or yard;
- l) 'these rules' mean these Conduct Rules;
- m) the annexures to these rules shall be deemed to be incorporated in, and form part of, these rules;
- n) the headings to the respective rules are provided for convenience of reference only and are not be taken into account in the interpretation of the rules;
- o) 'visitor' means the person (family member, guest, visitor, worker, or contractor), who visits an owner or occupier for a limited period;
- p) words and expressions to which a meaning has been assigned in the Act and the Management Rules shall bear the meaning so assigned to them;

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## Conduct Rules of Emerald Bay Body Corporate

- q) words importing:
  - i) the singular number only shall include the plural, and the converse shall also apply;
  - ii) the masculine gender shall include the feminine and neuter genders; and the neuter gender shall include the masculine and feminine genders;
- r) when any number of days is prescribed in these rules, the same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or proclaimed public holiday in the Republic of South Africa, in which event the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday;
- s) where figures are referred to in words and in numerals in these rules, if there is any conflict between the two, the words shall prevail;
- t) in the event of any conflict between these rules and the Management Rules, the Management Rules will prevail.

### 4. Directives

The trustees may issue Directives in connection with any Conduct Rule to provide direction and information as to the practical application of a Conduct Rule or with regard to the use of the common property. The trustees are not authorised to create new Conduct Rules through their issuing of Directives. A Directive shall not be in conflict with the Act, any Management Rule, or any Conduct Rule or with the Guidelines.

### 5. Guidelines

- 1) The trustees may compile and from time to time amend Guidelines to control the design and appearance of the buildings, building improvements and structures on the land, and alterations, devices, additions, and attachments to the common property or to the exterior of a building in terms of these rules.
- 2) Owners of sections shall comply with the provisions of these rules and the Guidelines with regard to all alterations to their sections, exclusive use areas, the common property or the exterior of a building in terms of these rules.
- 3) The trustees may perform such acts as are necessary to accomplish the purposes expressed or implied in these rules and the Guidelines, which acts shall include, inter alia, the examination, approval, and endorsement of the building plans in respect of structural alterations.
- 4) The trustees shall be entitled to:
  - a) appoint an architect and such advisors as are necessary to consider the building plans on their behalf and to ensure compliance with the Guidelines;
  - b) recover from the owner a submission fee, or the professional fee or consultation fee charged by a structural engineer or architect appointed by the trustees and such further charges as deemed necessary by the trustees, to consider an application for structural alterations and the building plans (the intention of the rules are that owners should pay their own professional fees incurred and that if the trustees require professional assistance to consider the building plans, the trustees may appoint such professionals deemed reasonably necessary, but the trustees shall only recover the professional fees from the owner if prior notice is given to the owner of the fees payable and the owner agrees to the payment of such fees to the body corporate);
  - c) determine a deposit payable by owners, to proceed with structural alterations or renovations in terms of these rules, which deposit shall be retained by the trustees until completion of the work;
  - d) enter the section with reasonable notice to the owner or occupier or contractor for the purpose of ensuring that the provisions of the Act, the Management Rules and Conduct Rules are being observed, except in an emergency when no notice is needed, and entry may be forced if indicated.

### 6. Animals, reptiles, and birds

- 1) No owner or occupier of a section or visitor to a section may keep any animal, reptile, or bird in a section or on the common property or bring an animal, reptile, or bird onto the premises without the trustees written consent. When granting such approval, the trustees may prescribe any reasonable condition.
- 2) An owner or occupier suffering from a disability and who reasonably requires a guide, hearing or assistance dog must be considered to have the trustees' consent to keep that animal in his section and to accompany it on the common property.
- 3) Pigeons, doves, geese, guinea fowl or any other bird, as well as cats and dogs, may not be fed on the common property, or on any balcony, or terrace, due to the problems that they cause.

**7. Refuse disposal**

- 1) An owner or occupier of a section shall:
  - a) maintain in an hygienic and dry condition, a receptacle for refuse within his section, his exclusive use area or on such part of the common property as may be authorised by the trustees in writing in their Directives;
  - b) deposit his refuse in suitable, strong plastic bags and in the case of tins or other containers, ensure that they are completely drained before being deposited into a refuse bag, and in case of broken glass, ensure that the glass is securely wrapped in newspaper, before being deposited into a refuse bag;
  - c) in compliance with the local authority regulations concerning refuse disposal, owners must separate dry refuse (bottles, tins, paper, plastics) for recycling and wet refuse for compost, before the disposal thereof;
  - d) for the purpose of having refuse collected on weekdays, place his refuse bags in front of the door of his section on weekdays before 09h00;
  - e) on Saturdays, Sundays and public holidays place his refuse bags in the refuse containers in the refuse room;
  - f) All wet refuse must be in a leak proof refuse bag.
- 2) Refuse or refuse bags may not be placed in the lifts or lobbies or on the common property contrary to these rules.

**8. Vehicles**

- 1) An owner or occupier of a section shall only park or stand his vehicle in the garage or undercover parking bay (section) or on the parking bay (exclusive use area) owned or rented by him, and may permit or allow the vehicle of his visitor to be parked or stood in such garage, undercover parking bay or on such parking bay, or on any other parking bay with the consent of the owner of that other parking bay.
- 2) The designated visitors' parking bays shall be solely for the use of visitors of owners and occupiers of sections, who may temporarily park their vehicles on the visitors' parking bays on a 'first come first serve basis', subject to the conditions imposed from time to time by the trustees. No owner or occupier of a section may park or stand a vehicle on a visitors' parking bay. Written consent from the trustees is required to enable a visitor to park his vehicle on a visitor's parking bay for a period longer than 4 (four) days, if available. Should no visitor's parking bay, be available, the vehicle of a visitor must be parked outside the premises of Emerald Bay.
- 3) Owners and occupiers must ensure that their visitors observe sub-rules (1) and (2).
- 4) Subject to sub-rules (1) and (2) above, no owner or occupier of a section shall park or stand any vehicle upon the common property or permit or allow any vehicle to be parked or stood upon the common property, without the written consent of the trustees.
- 5) No person may park or stand a vehicle in a manner or a position, which obstructs the flow of traffic or access to or egress from doors, garages, or parking bays. One vehicle may not occupy two parking bays, or protrude beyond the boundaries of a parking bay.
- 6) No caravans, trucks, trailers, boats, buses, or similar heavy vehicles may be parked on the common property without the prior written consent of the trustees, which consent may be given subject to conditions which must be observed
- 7) No owner or occupier may use or allow the use by his visitor, of an exclusive use parking bay marked "reserved", unless such owner or occupier is entitled to the use thereof.
- 8) Owners and occupiers of sections shall ensure that their vehicles and the vehicles of their visitors do not drip fuel, oil or brake fluid onto any parking bay, the common property or in any other way deface the premises. Owners shall be held responsible for repairing such defacing, or alternatively be liable for the cost of cleaning and/or removing such spillage as may be deemed necessary by the trustees from time to time in the event of the body corporate repairing same.
- 9) Damaged vehicles, vehicles that are not in general use or that are not roadworthy may not be parked on an exclusive use area or on any portion of the common property, without the prior written consent of the trustees, and subject to the time period as may be approved by the trustees and subject to such conditions as may be imposed by the trustees.
- 10) No owner or occupier of a section shall be permitted to dismantle or affect major repairs to any vehicle or service any vehicle or part of a vehicle in his section, on his exclusive use area or on any portion of the common property. Only emergency repairs to vehicles may be done.

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## Conduct Rules of Emerald Bay Body Corporate

- 11) The trustees may cause a vehicle's wheels, which is parked, standing, or abandoned on the common property without the trustees' consent or in contravention of these rules, to be clamped at the risk and expense of the owner of the vehicle. The trustees may further determine a reasonable penalty, which is to be paid for the unclamping or release of a vehicle.
  - 12) The parking or driving of a vehicle on the common property is at the risk of the owner or driver of the vehicle and no responsibility or liability shall attach to the body corporate or its agents or employees regarding any damage to a vehicle nor for anything which may befall any person in consequence of the use of a vehicle.
  - 13) Owners and occupiers of sections shall observe and obey all road signs on the common property, whilst also ensuring that at all times their visitors shall do the same. No one is allowed to drive their vehicles on the common property in a manner which causes a risk or danger or constitutes a nuisance to persons or property.
  - 14) Motorcycles and bicycles may only be used as formal transport to enter and leave the common property. This must occur along the defined routes, and not on any paths or other parts of the common property. Motorcycles and bicycles may not be used for any other purpose or any other manner on the common property, including exclusive use areas.
  - 15) No owner or occupier of a section or his visitor shall drive a vehicle or allow it to be driven without the driver being properly licensed, as required by law in respect of public roads.
  - 16) All vehicles travelling on common property are limited to a speed limit approved as may be approved by the Municipality for the scheme, or failing which, the speed limit prescribed by law.
  - 17) Owners and occupiers of sections, or their visitors shall not create a noise or nuisance through use of their vehicles on the common property and in particular no excessive revving of vehicles is allowed, and no loud music may emanate from a vehicle, and the hooters of vehicles shall not be sounded on the common property or at the gate, other than in the event of an emergency.
  - 18) No person may reside or sleep in a vehicle, trailer, or caravan, or in a garage or on any part of the common property.
  - 19) Owners or occupiers may not leave any obstructions to the free flow of pedestrian or vehicular traffic on any part of the common property. In particular access to staircases, passages, landings, and stairwells must be kept clear at all.
9. **Damage, alterations, devices, additions, and attachments to the common property or to the exterior of a building, renovations to sections, alterations to pipes, wires, cables and ducts in respect of a section, structural alterations, maintenance and access**

Damage, alterations, devices, additions and attachments to the common property or to the exterior of a building

- 1) It is recorded that the exterior of sections, including windows and doors, are part of the common property and that as such, (as provided in the Act, Management Rules), no owner of a section or person authorised by him shall mark, paint, drive nails or screws or the like into, or otherwise damage, or alter, any part of the common property or the exterior of a building, including the exterior of doors and windows, without first obtaining the written consent of the trustees.
- 2) Notwithstanding sub-rule (1) an owner or person authorised by him, may install:
  - i) A locking device, safety gate, burglar bars, or other safety device for the protection of his section; or
  - ii) A screen or other device to prevent the entry of animals or insects; or
  - iii) A front door in respect of his section:
    - a) Provided that the trustees have first approved the nature and design of the device and the manner of its installation.
    - b) Provided that all security screens or burglar bars to sections must be of a standard galvanized square bar design, with a white or beige epoxy coated finish, or alternatively a white expandable 'Trellidor' product. The security screen must be fitted internally.
    - c) Provided further that all security gates to sections must be of a standard galvanised square bar metal design with a white epoxy coated finish or alternatively a white expandable 'Trellidor' product. Security gates must not infringe on the passage. Details of such designs are obtainable from the trustees.
    - d) Provided further that all front doors to sections must remain white and conform in quality and appearance with similar doors generally installed elsewhere in the building.

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## Conduct Rules of Emerald Bay Body Corporate

- 3) An owner of a section shall not without the prior written consent of the trustees, who may attach reasonable conditions to their consent, construct to/on, or attach to/on the exterior of the building, the common property or an exclusive use area, any alteration, device, addition or attachment, inclusive of but not limited to a radio aerial, television aerial, satellite dish, air conditioner, solar heating system, canopy, awning, sunscreen or shade cover. The owner shall comply with the Guidelines and the requirements of the trustees regarding the nature and design of the equipment and the manner and place of its installation.
- 4) To obtain the written consent of the trustees in terms of sub-rules (1), (2) or (3), the owner of the section shall apply to the trustees by completing the prescribed application form and the application shall be accompanied by sufficient plans, photos and specifications that explain the nature, design, shape, size, material, colours and location of installation of the proposed alteration, device, addition or attachment. The trustees may grant their consent, or refuse such consent, in which case the trustees must give reasons for their refusal. The trustees may impose conditions when granting their consent.
- 5) In the event of common systems being installed by the body corporate for the reception and distribution of communication signals, all owners shall be liable to contribute towards the costs of installation and maintenance thereof, whether upon the basis of participation quotas or as a service cost, as may be decided by the members by majority vote.

### Renovations to sections and alterations to pipes, wires, cables and ducts in respect of a section

- 6) An owner of a section shall comply with the following provisions in respect of the renovation of his section and/or alterations to the wires, pipes, cables, and ducts in respect of his section:
  - a) An application to proceed together with a completed prescribed application form, with specifications, time frame, and if applicable a sketch plan of the proposed renovations and/or alterations must be submitted to the trustees, to obtain their consent to proceed.
  - b) The trustees shall convey their consent to proceed within 14 (fourteen) days of receipt of the application. The trustees may attach conditions to their consent.
  - c) Any alterations to pipes, wires, cables, and ducts shall comply with the requirements of the local authority.

### Structural alterations

- 7) An owner of a section shall comply with the following provisions to obtain the written consent of the trustees for structural alterations to his section and/or the common property and/or the building:
  - a) The owner shall submit a completed prescribed application form to the trustees, together with the building plans of the proposed structural alterations and any other additional documents that may be required by the trustees.
  - b) The owner shall pay the deposit determined by the trustees (if applicable) to cover damage to the building and removal of left-over rubble and other materials.
  - c) The owner shall pay the submission fee determined by the trustees and the professional fee payable to the architect (if applicable as referred to in conduct rule 5(4)(b)).
- 8) Upon receipt of the application, the trustees will consider the application and will advise the owner should any further documentation or information be required by them. If considered necessary by the trustees, they may consult an architect, engineer, legal advisor or other professional consultant regarding the proposed structural alterations and the owner may be held liable for the costs incurred. The trustees may require a structural engineer's certificate if any walls are to be demolished, or openings made or widened therein.
- 9) If the trustees are satisfied that the proposed structural alterations are aesthetically acceptable and does not prejudice the harmonious appearance of the buildings and are in accordance with the Guidelines (if applicable), for the purposes of which the trustees shall be the sole arbiter and their decision shall be final and binding on the owner, they shall approve and endorse the building plans and convey their written consent to the owner of the section. The trustees may impose conditions when granting their consent
- 10) Once the trustees have endorsed the building plans, the owner shall submit the building plans to the local authority for approval. Once the local authority has approved the building plans, a copy of the approved building plans must be submitted to the trustees, to obtain their written consent to proceed with the structural alterations. If a further professional fee is charged by the architect to consider the approved building plans, the owner shall pay the professional fee, if agreed to by the owner.
- 11) If required in terms of the Act or the Management Rules, the owner shall obtain authorisation of the members of the body corporate, by special resolution or otherwise in respect of the structural alteration. The members of the body corporate may impose conditions when granting their authorisation.

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## Conduct Rules of Emerald Bay Body Corporate

### Prohibition against enclosing of patios, stoeps or balconies

- 12) No patios, stoeps or balconies may be enclosed and the trustees may dismiss applications for the enclosing thereof, without consideration.
- 13) Windscreens of clear glass may be installed at the side of certain balconies in the discretion of the trustees to deflect wind. The proposed installation must be submitted to the trustees, to obtain their consent to proceed

### All alterations

- 14) The owner shall comply with the following provisions with regard to all alterations in terms of this rule:
  - a) The owner shall comply with the conditions imposed by the trustees or by the body corporate and with the provision of the Guidelines.
  - b) The owner shall ensure that qualified, licensed, and registered tradesmen are appointed, especially for plumbing, electrical and waterproofing work.
  - c) The owner shall ensure that qualified architects, builders, and structural engineers are appointed in respect of structural alterations.
  - d) Appropriate insurance must be taken out by the owner or his building contractor for the duration of the construction of structural alterations, if required by the trustees. The owner shall make provision for fire prevention and shall ensure that the safety of owners and occupiers are not compromised.
  - e) The owner shall ensure that the harmonious appearance of the buildings is not compromised. All doors and windows being installed must conform in outward appearance with the other doors and windows installed in similar positions elsewhere in the buildings.
  - f) The owner shall ensure that the structural integrity of the building is not compromised.
  - g) The owner shall comply with the requirements of the local authority and the regulations to the National Building Regulations and Building Standards Act, No. 103 of 1977, as amended and any other relevant legislation and regulations.
  - h) Any work done in pursuance of this rule, must be done during the hours of 08h00 to 17h00 on Mondays to Fridays, but not on Saturdays, Sundays, public holidays, the Easter Holiday period or during the period 15th December to 10th January. No demolition, hammering, drilling, sawing, or use of power tools or other disturbing noise producing activities may be undertaken outside of these hours, except in an emergency and with the written consent of the trustees.
  - i) The common property must be kept clean, tidy, and free of building rubble, which must be removed as work proceeds.
  - j) The electricity supply of the body corporate may not be used without the consent of the trustees, who may assess the costs of such usage for the account of the owner.
  - k) Any work done in pursuance of this rule must be done with the minimum of discomfort, disturbance, obstruction and nuisance to other owners or occupiers.
  - l) The owner must ensure that his workers and contractors comply with the relevant provisions of this rule.
  - m) The owner accepts responsibility and shall be liable to the body corporate (or other owners, as the case may be), for any damage caused by him, his workmen, or contractors, to the common property or to other sections and indemnifies the body corporate against such damage or any claims arising therefrom.
  - n) In the event of the common property being damaged due to construction, the trustees shall be entitled to appoint an independent contractor to repair the damages and the trustees may utilise the deposit (if any) to defray the costs of repairs. The costs of repairs may be recovered from the owner and may be added to the levy account of the owner.
  - o) Upon completion of construction of any structural alterations, the owner must notify the trustees who shall arrange for an inspection, before refunding the deposit to the owner, subject to any deductions that may be made for costs and damages in terms of these rules.
- 15) If required in terms of the Act, the owner shall ensure that the structural alteration is registered in the Deeds Registry.
- 16) Should any work commence before the trustees have granted their consent, or should the scope of work be materially changed, the trustees may, without any recourse to them, instruct an owner and/or his builder to stop the work, until written permission to continue has been granted by the trustees.

Maintenance of sections

- 17) An owner of a section shall:
- a) repair and maintain his section in a state of good repair as required by section 13(1)(c) of the Act;
  - b) repair and maintain (including renewal where reasonably necessary) the pipes wires, cables and ducts situated inside his section and used in connection with the enjoyment of that section only.
- 18) If an owner:
- a) fails to repair or maintain his section in a state of good repair as required by section 13(1)(c) of the Act; or
  - b) fails to repair and maintain (including renewal where reasonably necessary) the pipes, wires, cables, and ducts situated inside the section and used in connection with the enjoyment of that section only,

and any such failure persists for a period of thirty (30) days after the giving of written notice to repair or maintain given by the trustees or the managing agent on their behalf, the body corporate shall be entitled to remedy the owner's failure and to recover the reasonable cost of doing so from such owner. The costs shall be due and payable by the owner upon demand, and failing which, the costs may be recovered from the owner in the same manner as applies to arrear levies, together with interest at the rate applicable to levies.

Maintenance of alterations, devices, additions, or attachments

- 19) Any alteration, device, addition, or attachment made or installed by or on behalf of an owner of a section in terms of sub-rules 9(1), 9(2) or 9(3) shall be maintained by the owner of the section in a state of good repair and in a clean, neat, hygienic, and attractive condition, at his own expense. If an owner fails to maintain adequately such alteration, device, addition, or attachment and any such failure persists for a period of thirty (30) days after the giving of written notice to repair or maintain given by the trustees, the trustees shall be entitled to remedy the owner's failure and to recover the reasonable cost of doing so from such owner. The costs incurred by the trustees may be recovered from the owner in the same manner as applies to arrear levies, together with interest at the rate applicable to levies.

Access to sections and exclusive use areas

- 20) An owner or occupier of a section shall permit any person authorized in writing by the body corporate, at all reasonable hours on notice (except in case of emergency, when no notice shall be required), to enter his section or exclusive use area for the purposes of inspecting it and maintaining, repairing or renewing pipes, wires, cables and ducts existing in the section and capable of being used in connection with the enjoyment of any other section or common property, or for the purposes of ensuring that the provisions of the Act and the rules are being observed.

**10. Standardization of canopies, awnings, and sunscreens on patios, stoeps and balconies**

- 1) Owners shall comply with the following specifications in addition with any conditions imposed by the trustees:
- a) All sunscreens and awnings must reflect shades of colour to the outside that will not clash with the exterior colour of the building and is aesthetically acceptable in the discretion of the trustees.
  - b) Vertical sunscreens should be attached to the floor and not the handrail.
  - c) Vertical sunscreens should only be used when needed and not rolled down on a permanent basis.
  - d) Vertical sunscreens should be controlled by a gear mechanism and should roll up into a white square cassette that protects the material and is aesthetically acceptable in the discretion of the trustees.
  - e) Canopies should be of a semi-transparent PVC material.
- 2) An owner of the section shall maintain the sunscreen, canopy, or awning on his patio, stoep or balcony in a state of good repair at his own cost. If an owner fails to adequately repair or maintain the sunscreen, canopy, or awning and any such failure persists for a period of thirty (30) days after the giving of written notice to repair or maintain given by the trustees, the body corporate shall be entitled to remedy the owner's failure and to recover the reasonable cost of doing so from such owner. The costs shall be due and payable by the owner upon demand, and failing which, the costs may be recovered from the owner in the same manner as applies to arrear levies, together with interest at the rate applicable to levies.
- 3) An owner of the section shall remove the sunscreen, canopy, or awning on his patio, stoep or balcony and any other item, if required by the trustees, to enable them to paint the façade of the building.



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## Conduct Rules of Emerald Bay Body Corporate

- 4) If an owner removes the sunscreen, canopy, awning, or other item from his stoep, patio or balcony, he shall restore the building to its original state. If an owner fails to restore the building to its original state, and any such failure persists for a period of thirty (30) days after the giving of written notice to restore given by the trustees, the body corporate shall be entitled to remedy the owner's failure and to recover the reasonable cost of doing so from such owner. The costs shall be due and payable by the owner upon demand, and failing which, the costs may be recovered from the owner in the same manner as applies to arrear levies, together with interest at the rate applicable to levies.

### 11. Appearance from outside

- 1) An owner or occupier of a section shall not place, store or do anything in a section, on an exclusive use area or on any part of the common property, including patios, stoeps, balconies, terraces and yards, which in the discretion of the trustees is aesthetically displeasing or undesirable when viewed from the outside of the section.
- 2) Owners and occupiers shall ensure that their sections are provided with adequate curtaining or blinds at all times. All curtains, blinds, inside pull-down sunscreens, and sun filters must reflect shades of soft beige or off-white colour, when viewed from outside of the section. All curtains, blinds, sunscreens, and sun filters must be acceptable to the trustees in their discretion and shall not prejudice the harmonious appearance of the building.
- 3) Owners and occupiers of sections shall not attach film or sun filters to the windows of their sections, without the written consent of the trustees and according to their specifications. No one-way reflective film may be used, without approval by the trustees
- 4) No owner or occupier may, without the prior written consent of the trustees, place, store, or leave any object on any part of the common property, or allow or permit it to be so placed, stored, or left.

### 12. Signs and notices

- 1) No owner or occupier of a section shall place any sign, notice, flag, billboard, or advertisement of any kind whatsoever in a section, or on an exclusive use area or on any part of the common property, so as to be visible from outside the section, without the written consent of the trustees first having been obtained. The trustees may impose any reasonable conditions when granting their consent. The trustees may remove any unauthorised sign, notice, flag, billboard, or advertisement at the risk and expense of the owner thereof.
- 2) All external signage to the building must be in accordance with the local authority approved signage requirements.

### 13. Littering

- 1) An owner or occupier of a section or his visitor shall not deposit, throw, or permit or allow to be deposited or thrown, on/from any balcony, exclusive use area or on any part of the common property any rubbish including dirt, cigarette butts, food scraps, wrappers, empty cartons, plastic bags, fruit peels, news or magazine print or any other litter whatsoever.
- 2) In particular, an owner or occupier of a section may not throw any material or object or liquid over any balcony or out of any window or on any stairway or part of the common property.

### 14. Laundry

- 1) An owner or occupier must not, without the written consent of the trustees, erect a washing line on common property or hang any washing or laundry or other items on any part of the building or the common property, if such items are visible from outside the building or from any other section or the common property. The trustees may attach reasonable conditions to their consent. No clothes, washing, linen or other items may be hung over balcony walls, or in windows or corridors.
- 2) Owners and occupiers of sections shall hang their washing or laundry on the washing lines provided by the body corporate on the common property, subject to the conditions imposed from time to time by the trustees and provided that any washing or laundry left on a washing line for longer than 12 hours, or where a locked washing line cubicle is occupied with only a few pieces, the Manager may remove such washing or laundry at the risk of the owner thereof.

### 15. Storage of inflammable material and other dangerous acts

- 1) Subject to sub-rule (2), an owner or occupier must not, without the trustees' written consent, store a flammable substance in a section or on the common property unless the substance is used or intended for use for domestic purposes.

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## Conduct Rules of Emerald Bay Body Corporate

- 2) Sub-rule (1) above does not apply to the storage of fuel or gas in:
  - a) the fuel tank of a vehicle, boat, generator, or engine; or
  - b) a fuel tank or gas cylinder kept for domestic purposes in a ventilated storeroom or otherwise kept in compliance with any applicable legislation and regulations.
- 3) An owner or occupier of a section shall not store or do or permit or allow to be done, any act in the building or on the common property which will transgress the Occupational Health and Safety Act of 1993 and which will or may increase the rate of the premium payable by the body corporate on any insurance policy or which will or may lead to the insurance policy of the body corporate being suspended or cancelled or rendered void.

### 16. Sale, letting and related matters

- 1) An owner shall not sell his residential section without selling at least one garage or one parking bay to the purchaser of his section. The purpose of this rule is to ensure that each owner has ownership of, or a right of exclusive use to, at least one garage or one parking bay.
- 2) An owner is only allowed to own a section that consists of a storeroom, or a garage, or a parking bay if he is also the owner of a residential section in the scheme, and may lease any such sections or an Exclusive Use Area only to residents in Emerald Bay. Present signed legal leases to non-residents will be valid until it expires.
- 3) Upon the sale or transfer of a unit, the owner or transferor of the unit shall provide the trustees with the following information and any further information or documentation required by the trustees:
  - a) the new contact details of the owner (if applicable);
  - b) the full names and surnames, address, telephone number, e-mail address and fax number of the purchaser;
  - c) the envisaged date of occupation;
  - d) the number of persons who will occupy the section;
  - e) details of the parking bay or garage sold to the purchaser.
- 4) Upon entering into a lease agreement in respect of a section, and subsequently should any such details change, the owner or lessor of the section or his letting agent shall provide the trustees with the following information and any further information or documentation required by the trustees:
  - a) the contact details of the owner;
  - b) the full names, address, telephone number, e-mail address and fax number of the lessee and other occupiers of the section;
  - c) the duration of the lease;
  - d) the number of persons who will occupy the section;
  - e) confirmation that the lessee(s) and other occupiers have been given a copy of the Conduct Rules.
- 5) An owner shall furnish the lessee or the occupier of his section with a copy of the Conduct Rules. The Conduct Rules must be incorporated into the lease agreement as an annexure thereto and a provision thereof. Any breach of these rules by a lessee or other occupier shall be for the owners' responsibility.
- 6) All lessees of sections and other persons granted rights of occupancy by any owner of the relevant section are obliged to comply with these rules, notwithstanding any provision to the contrary contained in, or the absence of provisions, in any lease or any grant of rights of occupancy.
- 7) No form of "time-sharing" or any similar arrangement, including a scheme whereby ownership is shared between groups of persons, may be concluded, marketed, or conducted in respect of a section.
- 8) Moving of furniture or heavy or bulk articles as during removals, if any, should be by prior arrangement with the manager to protect the lift interior.
- 9) No owner or occupier shall use his section or a part of his section to provide guest accommodation for periods of less than 28 days at a time for financial gain. For the purpose of this rule, "guest accommodation" means the regular use of the section or part of the section as a guest house, bed and breakfast establishment, Airbnb, hostel or backpackers, or as a self-catering or holiday accommodation unit, or the use of the section or part thereof for the regular supply of lodging or board to members of the public or guests for monetary gain, including but not limited to rent out the section as a single self-catering unit for a periods of less than 28 days at a time.

**17. Occupancy, use of sections and related matters**

- 1) Owners and occupiers of residential sections shall primarily use their sections for residential purposes.
- 2) No owner or occupier of a residential section shall allow more than 2 (two) persons for every bedroom of the section to reside in the section at any one time. For the purpose of this sub-rule, a person who regularly sleeps in the residential section shall be deemed to reside in the section. For the purpose of this sub-rule the section shall consist of the number of bedrooms as indicated on the approved building plans.
- 3) No person may reside in a section, exclusive use area or other part of the common property, other than a section intended for residential purposes.
- 4) An owner or occupier shall use his section or exclusive use, for the purpose it is intended to be used as,-
  - a) shown expressly or by implication on a registered sectional plan, or
  - b) shown expressly or by implication on the original approved building plan thereof, or
  - c) inferred from the provisions of these rules or the Management Rules, or
  - d) is obvious from its construction, layout, and available amenities.
- 5) An owner or occupier shall not use his section, exclusive use area or any part of the common property, or permit it to be used, in such a manner or for such purpose as shall be injurious to the reputation of the building or the scheme.
- 6) An owner or occupier shall not contravene, or permit the contravention, of any law, by-law, ordinance, proclamation or statutory regulation, or the conditions of any licence, relating to or affecting the occupation of the building or the common property, or the carrying on of business in the building, or so contravene or permit the contravention of the conditions of title applicable to his section or another section or to his exclusive use area or any other exclusive use area.
- 7) No person may sleep overnight or reside in or on a section, balcony, exclusive use area or other part of the common property, other than inside a section intended for residential purposes.
- 8) No owner or occupier shall subdivide a section or any part thereof without the prior written consent of the trustees, which consent may be given subject to reasonable conditions. Such consent may be withdrawn if the prescribed conditions are not complied with.
- 9) Subject to the provisions of sub-rule (10), no animal or poultry may be slaughtered in a section or on any part of the common property.
- 10) The slaughtering of animals or poultry for religious reasons, in a section or on the common property will only be permissible provided that:
  - a) the owner and/or occupier has/have obtained the prior written consent of the trustees, which consent will not unreasonably be withheld provided that:
    - i) a written application for consent has been submitted to the trustees at least 2 (two) weeks prior to the date that the slaughtering is scheduled for;
    - ii) such written request must specify a reasonable date and time for the slaughtering to take place; the type of animal to be slaughtered; the name and qualifications of the person who will be carrying out the slaughtering ritual; and confirm that the animal will be brought onto the premises immediately prior to the slaughtering ritual and that the carcass will be removed immediately thereafter;
  - b) the slaughtering ritual must be carried out in accordance with the terms and conditions of the trustees' approval granted after consideration of the written application referred to in sub-rule (a)(i) above;
  - c) prior written confirmation from the Municipality is provided that the owner or occupier has their consent and will comply with the applicable by-laws;
  - d) prior written confirmation from the Department of Health is provided that the owner or occupier has their consent and that their specifications will be adhered to (as may be applicable);
  - e) prior written confirmation from the Society for the Prevention of Cruelty to Animals (SPCA) is provided that a SPCA official will attend the ritual and ensure that the animal will not endure unnecessary pain or suffering;
  - f) written proof is presented to the trustees that all affected owners and occupiers of sections within the scheme have received written notification of the slaughtering ritual to take place, which notification must set out the date and time that the slaughtering ritual is scheduled for.

**18. Eradication of pests**

- 1) An owner of a section shall keep his section free of rats, mice, lice, cockroaches, white ants, borer, and other wood destroying insects and to this end shall permit the trustees, the managing agent, and their duly authorised agents or domestic employees, to enter upon his section from time to time for the purpose of inspecting the section and taking such action as may be reasonably necessary to eradicate any such pests.
- 2) The costs of the inspection, eradicating any such pests as may be found within the section, replacement of any woodwork or other material forming part of such section that may be damaged by any such pests shall be borne by the owner of the section concerned.

**19. Noise and nuisance**

- 1) No owner or occupier of a section shall cause or permit to be caused a disturbance by shouting, screaming, or making any other loud or persistent noise or sound, including amplified noise or sound, or shall use any offensive, obscene, injurious, or unbecoming language in a section, or on an exclusive use area, or on any part of the common property.
- 2) Owners and occupiers of sections shall specifically maintain quietness between the hours of 22h00 and 08h00 in their sections and on the common property. On Sundays or public holidays no undue noise or disturbance may be caused at any time of the day.
- 3) All radios, televisions, stereo systems, and other appliances emitting sound must be kept at audio levels, which are reasonable, in the discretion of the trustees, at all times.
- 4) An owner or occupier of a section shall not use his section, exclusive use area or the common property or permit it to be used in such a manner or for such purpose as shall cause a nuisance to any other owner or occupier of a section or an unreasonable invasion of his privacy.
- 5) Owners and occupiers must supervise their children, and the children of their guests or visitors to prevent them from causing a nuisance or disturbance to, or an invasion of the privacy of, owners or occupiers.
- 6) No games, including ball games, may be played on the common property (including lawns), parking bays or in garages.
- 7) No skateboards, roller skates, roller blades, or similar may be used on the common property.
- 8) Motorcycles and bicycles may only be used as formal transport to enter and leave the common property. This must occur along the defined routes, and not on any paths or other parts of the common property. Motorcycles and bicycles may not be used for any other purpose or any other manner on the common property, including exclusive use areas.
- 9) The horns of motor vehicles may not be sounded at any time on the common property, except as a warning of imminent danger in the case of an emergency.
- 10) No explosives, crackers, fireworks, or items of similar nature may at any time be exploded, lit or operated in sections or any part of the common property.
- 11) No firearms may be discharged in a section or any part of the common property, except under such circumstances which would reasonably justify the use of a firearm for self-defence and related purposes.
- 12) No pellet guns may be discharged on the common property.
- 13) No stones or solid objects may be thrown or propelled on the common property or from any section or exclusive use area.

**20. Use of sections, common property, and facilities**

- 1) In general, all owners and occupiers shall ensure that their use of the common property, facilities, and of sections, and their conduct and activities, and that of members of their households, and their visitors, are at all times carried out in compliance with the provisions of the Act, Management Rules, and the Conduct Rules.
- 2) An owner or occupier of a section shall use and enjoy the common property in such a manner as not unreasonably to interfere with the use and enjoyment thereof by other owners and occupiers of sections or other persons lawfully on the premises.
- 3) No auction, fete, jumble sale or exhibition may be held in a section or on the common property, without the written consent of the trustees. The trustees must be notified in advance of any sale in execution of a unit. Permission for the auction of a unit to be held on the common property will be given after a request and advance notification was received by the trustees.

- 4) Use of illegal substances on the common property is strictly prohibited.

**21. Use of swimming pool and braai areas**

- 1) The swimming pool and braai areas are primarily for use by owners and occupiers and may only be used by their visitors if accompanied by the relevant owner or occupier and provided that they comply with the further provisions of this rule.
- 2) The swimming pool is used at the sole risk of the user. Children less than 7 years of age must at all times be accompanied by an adult capable of accepting responsibility for them.
- 3) Owners, occupiers and their visitors and children shall use and enjoy the swimming pool and braai area in such a manner as not to unreasonably interfere with the use and enjoyment thereof by other owners and occupiers.
- 4) The access gate to the swimming pool area must be locked at all times. Access to the swimming pool area may only be obtained via the access gate.
- 5) No tubes, lilo's, surfboards or other similar items, and any item, such as glass, which may constitute a danger to persons, are allowed in the swimming pool, or braai area.
- 6) Use of glass and/or glass containers in the swimming pool and at the paved area surrounding pool is strictly prohibited.
- 7) No persons under the influence of alcohol or drugs shall be allowed in the pool area. Parties, drinking and unruly behaviour is prohibited
- 8) No alcoholic beverages may be brought to or consumed at the swimming pool.
- 9) Any noise at the swimming pool and enclosure must be contained and owners and occupiers must ensure that no disturbance is caused to other owners or occupiers of sections.
- 10) Unless used with earphones, no radios or other equipment or instruments emitting sound or music, may be used or allowed to be used within the pool area.
- 11) On Sundays, quiet shall be observed throughout the day at the pool and braai area.
- 12) Only conventional swimwear must be worn in the pool area. Swimming or sunbathing in the nude or semi-nude is not allowed.
- 13) Litter and refuse (including cigarette butts) must be deposited in the containers provided for this purpose.
- 14) The swimming pool area and braai facilities must be left in a clean and neat condition after use. No towels, toys, furniture, braai equipment, braai wood, ash or litter may be left in the area after use thereof.
- 15) The trustees reserve the right to prohibit an owner or occupier or person or group who fails to adhere to these rules from using the swimming pool and facilities.
- 16) No unauthorised person is allowed to tamper with, change or set the pool pump, Kreepy Krauly or other pool cleaner or pool equipment.

**22. Braaiing**

No fires are allowed in or on patios, stoeps, balconies, terraces and yards, or any part of the common property, except in existing built-in braais and at the common braai area on the common property. Braaiing on small Gas braais with a lid will be allowed on patios, stoeps and balconies.

**23. Using the lifts**

- 1) Owners and occupiers of sections must adhere to the displayed warning signs and conditions imposed by the trustees regarding the use of a lift, and shall not exceed the maximum number of persons or weight limit when using a lift. No person shall in any way overload a lift or otherwise damage the lift mechanism or the interior thereof.
- 2) No smoking is allowed in a lift.
- 3) Owners and occupiers shall ensure that children under their supervision do not play in or with the lifts.

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## Conduct Rules of Emerald Bay Body Corporate

- 4) During removals when heavy, goods, furniture or appliances are transported in a lift, protective blankets, or other suitable material, should by prior arrangement with the Manager, be installed to protect the lifts.

### 24. Gardens

- 1) No plant, natural vegetation, or flower may be picked, trimmed, or damaged, nor may any natural fauna be harmed, or any damage or change be caused to garden areas of the common property, without the written consent of the trustees.
- 2) Private gardens must be kept in a neat and attractive condition at all times by owners and occupiers.
- 3) An owner or occupier shall not cause or allow any garden tools or other equipment to be left or kept in a place where they are visible from other sections or any part of the common property.
- 4) The common property lawns are for visual enjoyment only and may not be walked, played or trespassed upon.

### 25. Domestic employees

- 1) Owners and occupiers shall be responsible for the conduct of their domestic employees and shall ensure that they adhere to these rules and do not cause a noise, nuisance or disturbance to an owner or occupier of a section.
- 2) Domestic employees should have a work permit and be registered for security reasons at Greenways Homeowners Estate to gain entrance and abide by the Conduct Rules.

### 26. Body corporate employees

- 1) Any person employed by the body corporate is responsible to the trustees only. No owner or occupier of a section may instruct a body corporate employee in any way concerning his performance, but all such matters are to be directed in writing through the trustees.
- 2) No owner or occupier shall make use of the services of a body corporate employee during his prevailing working hours.

### 27. Damage

In the event of damage being caused to the common property by an owner or occupier of a section or by the visitors of an owner or occupier, the owner of the section shall be liable to compensate the body corporate for the costs of repairing the damage, which costs shall be due and payable by the owner of the section upon demand, and failing which, the costs may be recovered from the owner in the same manner as applies to arrear levies, together with interest at the rate applicable to arrear levies.

### 28. Risk

- 1) Any persons present on the premises or the common property or using any of the services or facilities of the body corporate does so entirely at his own risk. Any claim by any person against the body corporate shall be limited to the amount actually recovered by the body corporate from the receipt of proceeds of any general public liability insurance, if recovered. To the extent that there is inadequate public liability insurance in respect of a claim, an owner or occupier or other person shall not have any claim against the body corporate, except in the case of bad faith or gross negligence of the trustees or of the body corporate's employees.
- 2) The body corporate or its agents' representative and employees shall not be liable or responsible in any manner whatsoever for the receipt or the non-receipt and delivery or non-delivery of goods, postal matter or any other property.

### 29. Breach

- 1) In the event of any breach of any of these rules by an occupier of a section or by the visitors of the owner or occupier of the section, such breach shall be deemed to have been committed by the owner himself. Without prejudice to the foregoing, the trustees shall be entitled to take or cause to be taken such steps against the person actually committing the breach as they may in their discretion deem fit, with or without proceedings against the owner of the section.

- 2) Should an owner or occupier of a section commit any breach of these rules and fail to commence to remedy that breach within a period of 7 (seven) days after the receipt of written notice to that effect and complete the remedying of such breach within a reasonable time, then the trustees shall be entitled on behalf of the body corporate, without prejudice to any other rights or remedies which the trustees or the body corporate or any other owner may have in law or in terms of the Act, the Management Rules or these rules, including the right to claim damages and the right to impose penalties:
  - a) to enter upon the section and/or exclusive use area and/or the common property to take such action as may be reasonably required to remedy the breach and the owner of the section shall be liable to the body corporate for all costs so incurred, which costs shall be due and payable upon demand, and failing which the costs may be recovered from the owner in the same manner as applies to arrear levies, together with interest at the rate applicable to levies, and/or
  - b) to institute proceedings on behalf of the body corporate against such owner and/or occupier of the section in any court of competent jurisdiction for such relief as the trustees may consider necessary, and/or
  - c) to proceed with mediation or expert intervention subject to agreement between the parties to the dispute, and/or
  - d) to apply to the competent Ombud in terms of the Community Schemes Ombud Service Act, No. 9 of 2011 for a suitable order.

### 30. Imposition of penalties

- 1) If the conduct of an owner or occupier of a section or family members, guests, visitors, domestic employees or contractors or other invitees of the owner or occupier constitute/s a nuisance in the opinion of the trustees, or a contravention of a provision of the Act, the Management Rules or Conduct Rules, the trustees may:
  - a) by written notice inform the owner of the nuisance or contravention and warn the owner that if he fails to remedy the contravention, or persist in such conduct or contravention, or if such conduct or contravention is repeated, a penalty will be imposed on the owner; or
  - b) by written notice impose a penalty on the owner, which notice shall state the reasons for the imposition of the penalty, if despite the written notice referred to in sub-rule (a), the owner fails to remedy the contravention, or if the owner persists in the conduct or contravention, or if such conduct or contravention is repeated; or
  - c) summarily and without warning, by written notice impose a penalty on the owner of the section, which written notice shall state the reasons for the imposition of the penalty.

In the written notice referred to in sub-rule 30(1)(b) or (c) the owner must be informed that should he dispute the decision of the trustees he must within 30 (thirty) days of the written notice, lodge an objection against the penalty imposed with the trustees. For this purpose, the owner may use the prescribed complaint form contained in annexure 4 to the regulations under the Act.

- 2) The penalty imposed under sub-rule (1)(b) or (c) above, becomes due on the date of the written notice and must be paid within 30 (thirty) days from the date of the written notice. Should the penalty remain unpaid it shall be recovered from the owner of the section in the same manner as applies to arrear levies, together with interest at the rate applicable to arrear levies.
- 3) The trustees may from time to time determine the categories of contraventions and the amounts of the penalties in respect of first and subsequent contraventions, subject to any directions given or restrictions imposed by the members on the trustees at a general meeting. **The penalty imposed on an owner of a section shall not be equal to or more than the applicable monthly levy payable by the owner of the unit concerned to the body corporate.**
- 4) A penalty may be imposed in respect of each separate contravention. In the event of a continuing contravention, the owner of the section shall be deemed to be guilty of a separate contravention for every 24 hours or part thereof during which such contravention continues and shall be liable in respect of each such separate contravention.
- 5) An owner of a section may within 30 (thirty) days of the date of the written notice referred to in sub-rule (1)(b) or sub-rule 1(c), lodge an objection against the penalty imposed with the trustees.
- 6) Upon receipt of the objection, the trustees may:
  - a) withdraw or reduce the penalty, or
  - b) schedule a trustees' meeting for the purpose of considering the objection and invite the owner of the section to attend, or to be represented.

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## Conduct Rules of Emerald Bay Body Corporate

- 7) At the trustees' meeting referred to in sub-rule (6)(b) above, the owner or his representative shall have the right to:
  - a) present his case;
  - b) present any evidence, including the calling of witnesses, to substantiate his case;
  - c) cross-examine any person called as witness in support of the charge;
  - d) have access to documents produced in evidence;
  - e) produce mitigating factors.
- 8) The failure of the owner charged to attend the trustees' meeting, or his representative, referred to in sub-rule (7) shall not render the proceedings at the meeting void. Should the owner, or his representative not attend the trustees' meeting without providing a reasonable request for postponement, the trustees may, in their sole discretion, continue with the trustees' meeting and consider the objection in the absence of the owner.
- 9) Upon the conclusion of the trustees' meeting, the trustees shall deliberate the evidence and if so resolved, they may:
  - a) uphold the penalty; or
  - b) withdraw or reduce the penalty.

### 31. Complaints

- 1) Owners and occupiers of sections shall submit any complaints to the trustees or managing agent in writing.
- 2) If the complaint relates to breach of these rules by an owner or occupier of a section, the complainant shall indicate:
  - a) the nature of the breach;
  - b) the identity of the owner or occupier alleged to have committed the breach;
  - c) the date and time of the breach;
  - d) his own identity; and
  - e) the identity of any other person(s) who witnessed the breach.
- 3) Should a complaint be made by or against a trustee in terms of any rule, such trustee shall be precluded from considering the complaint at the trustees' meeting and taking part in any ruling, finding or the imposition of a penalty. Such trustee may however present his case at the trustees' meeting prior to voting.

### 32. Notices

- 1) Any notice to an owner or occupier of a section in terms of these rules, will be regarded as having been properly given if such notice is:
  - a) delivered to the owner or occupier by hand, in which event it shall be regarded as having been received on delivery;
  - b) delivered by registered post to the owner of the section to his *domicilium citandi et executandi* and to the occupier to the address of his section, in which event it shall be regarded as having been received on the 4th day after the date of postage;
  - c) delivered to the owner or occupier by fax or e-mail to the fax number or e-mail address of the owner or occupier, in which event it shall be regarded as having been received on the date of transmission.
- 2) In all instances where a notice is sent to the occupier of a section in terms of these rules, a copy of the notice shall also be sent to the owner of the relevant section.



**33. Written consent**

Whenever the written consent of the trustees is required in terms of these rules, application for such consent must be made in writing and the applicant shall furnish the trustees with all the details and documents as required by them. The written consent of the trustees in terms of these rules or the withdrawal thereof shall be in such format as decided from time to time by them. The trustees may attach reasonable conditions to their consent, and they may summarily withdraw their consent, if any condition imposed is not complied with.

**34. Insurance excess payment**

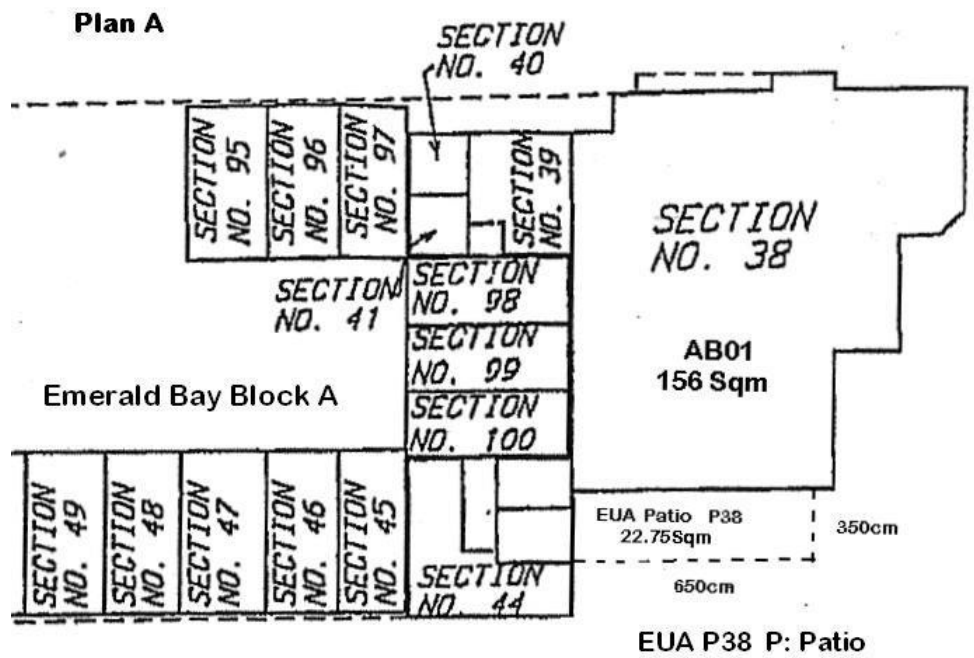
If an owner intentionally or negligently fails to repair or maintain his section in a state of good repair as required by section 13(1)(c) of the Act, and in consequence of such failure, the section of another owner is damaged, such damages being foreseeable by the offending owner, then the offending owner shall, notwithstanding any other claim against him, also be liable to pay the excess to the insurer, in the event of an insurance claim.

**35. Relaxation of rules**

No indulgence or relaxation in respect of these rules shall constitute a waiver or consent or prevent their enforcement by the trustees at any time.

**36. Creation and allocation of a right of exclusive use of a part of the common property (patio)**

- 1) In accordance with section 10(7) of the Act, the right of exclusive use of a part of the common property is hereby conferred upon a member of the body corporate, being the registered owner of a section in the scheme as stipulated hereunder.
- 2) The part of the common property referred to in sub-rule (1) above, is the area marked as "P38" on the plan marked "Plan A", attached to these rules, being a layout plan drawn to scale of the affected part of the common property. The area, hereinafter called patio, shall be used for the purpose of a patio. The exclusive use area (patio) is hereby allocated to the owner of the section (the linked section), as set out in the Schedule, attached hereto, marked "Schedule B".
- 3) The owner shall not sell his linked section without simultaneously selling the exclusive use area linked to the section. Upon the registration of transfer of the linked section, the new owner of the linked section will automatically obtain the right of exclusive use of the linked exclusive use area as set out in the Schedule.
- 4) The owner of the linked section shall not erect any structure or building improvement on his exclusive use area without the authorisation of the members by ordinary resolution as contemplated in Management Rule 30(1)(g) and in Conduct Rule 10, and subject to compliance with any reasonable conditions that may be imposed by the trustees. Conduct Rule 10 shall apply *mutatis mutandis* to the patio created in terms of this rule.
- 5) The owner of the linked section shall be liable to pay additional levies to the body corporate in respect of his exclusive use area as determined from time to time by the trustees in accordance with section 3(1)(c) of the Act.
- 6) The body corporate shall be responsible for the maintenance of the exclusive use area (patio) pursuant to section 3(1)(l) of the Act, subject to the duties of the owner of the linked section to keep his patio in a clean and neat condition, as stipulated in section 13(1)(c) of the Act and subject to the duty of the owner of the linked section to maintain the canopy, awning or sunscreen on the patio as stipulated in Conduct Rule 10(3).
- 7) The owner of the linked section shall allow the trustees or their duly authorised representative(s) access to and across his exclusive use area for any purpose reasonably required in terms of the Act.
- 8) The owner and occupier of the linked section shall comply with the applicable provisions of the Act, the management rules and these rules when using his exclusive use. An owner or occupier of a linked section shall not use an exclusive use area or allow it to be used in a manner or for such purpose, which in the discretion of the trustees is likely to impair the safety, appearance or amenity of the other sections or the common property. In this regard, the decision of the trustees shall be absolute and binding.
- 9) The exclusive use area created in terms of this rule shall only be cancelled by way of a suitable amendment of this rule by special resolution of the members of the body corporate, provided that the written consent is obtained from the owner of the linked section.



Schedule B

SCHEDULE OF ALLOCATION OF EXCLUSIVE USE AREAS

	Allocated to the following owner of a section (the linked section)
P38	Section no. 38

DocuSign Envelope ID: BB7B25A0-84DB-4AEB-A5AD-B5AD64068FFA



Community Schemes  
Ombud Service

## CERTIFICATE

SECTIONAL TITLES SCHEMES MANAGEMENT ACT, 2011 (ACT 8 OF 2011)  
CERTIFICATE IN TERMS OF SECTION 10 (5) (c)

**Scheme Registration Number: REG/16/WC/004163**

1. I, the undersigned, Boyce Mkhize, in my capacity as the Chief Ombud, acting in terms of section 10 (5) (c), of the Sectional Titles Schemes Management Act, 2011 (Act No 8 of 2011), hereby certify that: -
2. At a meeting held on the 8 March 2022, the scheme ratified a special resolution approving the amendments of the conduct rules.
3. The amendments to the Conduct Rules in terms of section 10(5)(a), of the Sectional Titles Schemes Management Act, 2011 (Act No. 8 of 2011) have been approved.
4. The Conduct Rules are for the regulation and management of the following Community Scheme:

**EMERALD BAY**

DS

Approved and dated at  
Durban on the 22<sup>ND</sup> day of  
September 2022



**APPROVED**

*Adv. Boyce Mkhize*  
Chief Ombud