

# *Cape St. Martin*

## PRIVATE NATURE RESERVE

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## CONDUCT RULES

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## RULES

### 1. INTRODUCTION

The Reserve has been developed to provide a gracious, comfortable and secure lifestyle for its residents. These rules have been adopted in accordance with the constitution in order to ensure and promote such a lifestyle. These rules are not intended to inhibit the lifestyle of residents or impact marketability of properties, but rather to protect them and they are equally binding on all residents. These rules are administered and enforced by the Association via the mechanisms detailed in this document.

It is the responsibility of every owner to ensure that all of their invitees (including but not limited to guests, employees and tenants) abide by these rules. The House Rules are subject to change at the discretion of the Association. In the event of a dispute between residents, the parties involved should endeavour to settle the issues between themselves. Where dispute cannot be resolved amicably, it should be referred to the Reserve Manager / Association who will conciliate the dispute. The decision of the Reserve Manager / Association is final and binding in respect of the interpretation of the Rules. These House Rules must be read in conjunction with the following documents:

- The Constitution of Cape St Martin Owners Association;
- The General Design Guidelines;
- The Contractor's Code of Conduct.

### 2. INTERPRETATION

2.1 Unless the context shall clearly indicate otherwise, the following words and phrases shall have the meaning assigned to them as set out hereunder:

2.1.1 Association means Cape St Martin Home Owners Association established for the management of all aspects of the Private Nature Reserve known as Cape St Martin;

2.1.2 Business Day means weekdays other than Saturdays, Sundays and Public Holidays;

2.1.3 Constitution means the Constitution of the Cape St Martin Home Owners' Association;

2.1.4 Common Area means the Private Open Space including any improvements, cultivation and facilities within Cape St Martin that are intended for common usage by and benefit of residents;

2.1.5 Conduct Rules means the Code of Conduct and includes any and all amendments made thereto;

- 2.1.6 The Cape St Martin Private Nature Reserve (hereafter referred to as 'the Reserve') shall mean the Area previously known as Portions 6 & 7 of the Farm Cape St Martin No 6 excluding the Public Road;
- 2.1.7 Erf or Erven means any Erf or Erven resulting from any subdivision of the Area referred to in clause 2.1.6;
- 2.1.8 General Design Guidelines means the architectural guidelines prepared for the Development and includes all/any amendments made thereto.
- 2.1.9 In writing means written, printed or lithographed or partly one and partly another and other modes of representing or producing words in a visible form including e-mails and facsimile;
- 2.1.10 Levy means the levy contribution due to the Association by an Owner in terms of the Constitution;
- 2.1.11 Member means every owner of an Erf in the Reserve, as evidenced by registration in the Cape Town Deeds Registry;
- 2.1.12 Month means calendar month;
- 2.1.13 Office means the registered office of the Association;
- 2.1.14 Owner means the registered owner of an Erf in the Reserve.
- 2.1.15 Public Road means the public road not registered in the name of the Association;
- 2.1.16 Reserve Manager means the person appointed to that office by the Association;
- 2.1.17 Resident means any person who is resident at the Reserve and includes owners and members of their family, their guests and tenants;
- 2.1.18 Rules means the rules as contained in this document;
- 2.1.19 Trustee means a member of the Trustee Committee;
- 2.1.20 Trustee Committee means the nominated Trustees of the Association collectively and includes alternate and co-opted Trustees;
- 2.1.21 Unit means an Erf together with a dwelling, garden, driveway and all improvements of a permanent nature;
- 2.1.22 Vehicle means any form of conveyance, whether self-propelled or drawn by machine, animal or otherwise;
- 2.2 The clause headings in these rules have been documented for convenience and shall not be taken into account in its total interpretation;

- 2.3 Unless the context clearly indicates contrary intention:
- 2.3.1 the singular shall include the plural and vice versa; and
  - 2.3.2 reference to any one gender shall include the other genders; and
  - 2.3.3 reference to natural persons shall include legal persons and vice versa.
  - 2.3.4 words and phrases defined in the constitution bear corresponding meanings herein.
- 2.4 Words and expressions defined in any sub-clause shall, for the purpose of the clause of which that sub-clause forms part, bear the meaning Association assigned to such words and expressions in that sub-clause.
- 2.5 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive clause in the body of these rules, notwithstanding that it is only contained in the interpretation clause.
- 2.6 If any period is referred to in this agreement by way of reference to a number of days, the days shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day, which is not a business day, in which case the day shall be the next succeeding business day.
- 2.7 These rules shall be governed by, construed and interpreted in accordance with the law of the Republic of South Africa.

### 3. USE OF STREETS

- 3.1. Whilst children should be discouraged from playing in the street, it is not forbidden for children to play in the streets subject to the following provisions:
- 3.1.1 No activity shall be permissible in the Public Road area
  - 3.1.2 No activity shall be permissible which causes a nuisance to the residents
  - 3.1.3 Owners are responsible for the control of their children, their visitors or occupants and for any damage caused by them.
- 3.2. Vehicles shall not be permanently parked in the Public Road or Street or any portion of the street.
- 3.3. Vehicles, inclusive of boats, caravans etc., shall not be parked in front of garages on a permanent basis.

### 4. DOMESTIC REFUSE

- 4.1 All refuse (whether domestic or garden) shall be kept in separate suitable containers. All of the requirements of the local authority with regard to the collection of refuse shall be complied with.

## 5. ANIMALS

- 5.1 Unless written permission has been given by the Association to any member, only domestic animals posing no danger may be kept. Domestic animals shall be limited to 2 (two) per Erf. Domestic animals may be kept only by owners and not by tenants or guests. Dogs must be kept in suitable enclosures and be prevented from straying off the relevant owner's Erf. All domestic animals shall at all times bear a tag, which shall reflect the name, telephone number and Erf number of the relevant owner. Members must take all reasonable precautions and if required by the Association erect a suitable enclosure that conforms to the Architectural Guidelines and Controls to prevent the domestic animals from straying.
- 5.2 Should any domestic animal prove to be a continual nuisance or danger to other residents, the Association may call on the owner of the domestic animal to remove it and if the owner fails or refuses to do so, the Association may impose penalties on the Member concerned and/or procure its removal from the Reserve and recover any costs so incurred from such Member concerned, without prejudice to its rights to recover any penalty imposed.
- 5.3 No poultry, pigeons, aviaries, domesticated wild animals or other livestock may be kept within the Reserve. Only domestic animals, which in the sole opinion of the Association pose no danger to residents, may be kept. If animals are brought onto or found upon the Reserve contrary to the provisions of these rules or if any animal creates a nuisance to other residents, the Reserve Manager / Association shall be entitled (without limiting the generality of the rights afforded to it in terms hereof) to either:
- 5.3.1 require the relevant owner to remove the animal from the Reserve; and/or
- 5.3.2 itself remove the relevant animal from the Reserve and to claim all costs so incurred from the relevant owner.
- 5.4 Dogs shall not be allowed on common property unsupervised and should be on a leash. If any dog digs holes and/or otherwise damages common property or defecates on common property, the relevant owner shall be required to repair the damage and/or remove the mess, as the case may be. Should the dog's owner fail to remove the mess or repair the damage caused, the Association shall be entitled to have such mess removed or repaired and to recover such costs or damages from the Member concerned.

## 6. TRAFFIC AND PEDESTRIANS

- 6.1 No vehicles shall enter or leave the Reserve at any point except at the designated entrances. All visitors will be required to abide by the House Rules, regulations and Constitution of Cape St Martin Private Nature Reserve and compliance therewith will be the responsibility of respective owners.

- 6.2 No Member shall permit the use of the access code, issued to such Member for operating the vehicle entrance gate by any person other than a member of his household, or guests or lessees of that Member.
- 6.3 Commercial and construction deliveries are not permitted on Sundays or public holidays, nor on Mondays – Friday before 07H00 and after 18H00 and on Saturday before 07H00 and after 13H00, without the prior consent of the Association.
- 6.4 Motorised vehicles shall only be driven on the Reserve roads by persons in possession of a valid motor vehicle driver's license, which would permit them to drive that vehicle on a public road within the Republic of South Africa.
- 6.5 No person shall drive any vehicle on any road within the Reserve at a speed in excess of 30 km per hour. The Association shall be entitled to impose a penalty on the Member concerned, whether such contravention is committed by such Member, his guests, members of his household, employees or invitees. The Association reserves the right to enact from time to time such traffic rules, as deemed appropriate.
- 6.6 Pedestrians, animals, birds and wild life shall at all times have the right of way within the Reserve and vehicles shall be brought to a stop whenever necessary.
- 6.7 All persons who enter the Reserve shall observe and comply with the provisions of any road traffic ordinance / legislation applicable to the Western Cape Province as fully and effectively as though the Reserve's roads are public roads as defined in such legislation.
- 6.8 No person shall permanently house any motor vehicle, golf cart, caravan, boat or the like on the Reserve, except in a structure built for this purpose and as approved in writing by the Architectural Committee
- 6.9 Vehicles, boats or caravans may not be parked permanently on any roads, vacant Erven or other common areas. The Association may remove any vehicle, boat or caravan parked in contravention of this rule from the Reserve. The relevant owner shall be liable for all costs so incurred.
- 6.10 No helicopters or any means of aerial conveyance may be landed at any place on the Reserve without the written authority of the Association.

## 7. DOMESTIC WORKERS

- 7.1 Residents' domestic workers are obliged to abide by these rules and the constitution. Residents are obliged to make their domestic workers aware of these rules and the constitution.
- 7.2 Residents will be required to notify the Association and provide full details of any domestic workers who reside in the Reserve.

## 8. BOAT LAUNCH

- 8.1 No person shall launch any motorised boat or craft of any description from the Reserve.

## 9. LETTING

- 9.1 These rules apply to and are binding upon all tenants. An owner (or his agent) who intends to let /sublet a unit shall:
- 9.1.1 Furnish the tenant with a copy of these rules; and
  - 9.1.2 Inform the Tenant in writing that these rules are binding upon him and are enforceable against him by the Association.
- 9.2 If any tenant, guest, employee or other invitee of any member fails to comply with any of the provisions of these rules, the Association shall be entitled to deny that tenant, guest, employee or other invitee access to the Reserve.
- 9.3 The Association shall reserve the right to prohibit the letting of a specific unit where the owner is in violation of this clause or where his tenants are repeatedly in violation of these rules.

## 10. GUESTHOUSES

- 10.1 No owner in the Reserve shall be allowed to carry out the business of a guesthouse or related activity on his premises.

## 11. COMMERCIAL ACTIVITY

- 11.1 No application for a trading license or zoning relaxation will be considered.
- 11.2 No advertising board may be displayed anywhere on the Reserve other than the standard architectural building board during building construction or the standard Estate Agents board during marketing of a property.
- 11.3 No door-to-door canvassing or selling is permitted on the Reserve.
- 11.4 Use of the Association mailing list for commercial purposes is prohibited and Members are prohibited from providing non-members with the Association mailing list.

## 12. CONDUCT

- 12.1 All clothing, household linen or washing of any nature, shall be adequately screened from view and may only be placed in a drying yard or such other area designed for such purpose. Under no circumstances may any washing be hung out on balconies or over balcony railings.



- 12.2 No unauthorised persons are allowed onto building sites under construction.
- 12.3 No person shall make or cause to make any disturbance or excessive or undue noise, which constitutes a nuisance to other persons. In particular:
- 12.3.1 All vehicles must be efficiently silenced;
  - 12.3.2 The mowing and/or edging of lawns, the use of leaf blowers, or the operation of any other noisy machinery that may disturb neighbours is strongly discouraged after normal working hours unless there are exceptional circumstances. These activities are, however, prohibited on Sundays and Public Holidays. All building work, whether undertaken by a contractor or by a Member, shall be done during the hours stipulated by the Association for building contractors, unless written approval for an exception is given by the Association;
  - 12.3.3 All disturbances must cease between 22H00 and 06H30 except for the occasional party, when such activities shall cease at 24H00. Residents are encouraged to inform their neighbours if they are going to have a party where loud music may be played;
  - 12.3.4 Loud music out of motor vehicles is not allowed in the Reserve.
- 12.4 To maintain the residential nature of the Reserve, no Member or tenant shall permit the number of occupants of his unit to exceed that of the number of permanent beds in the unit.
- 12.5 Whenever the Association receives a written complaint from a Member relating to unacceptable behaviour or conduct in contravention or in breach of these Rules and/or the Constitution, the Association shall investigate such complaint and take appropriate steps to remedy such behaviour or breach within the scope of these Code of Conduct Rules and the Constitution.
13. FIREWORKS
- 13.1 No fireworks may be set off within the boundaries of the Reserve.
- 13.2 As the discharge of fireworks has been prohibited by Municipal by-law, criminal charges may be brought against any perpetrator.
14. USE OF FIREARMS
- 14.1 Discharging a firearm in a residential area has been outlawed and is therefore prohibited within the Reserve. Criminal charges will be instituted in all cases of unlawful firearm discharges.
- 14.2 Discharging of firearm for recreational purposes, or reasons other than self-defence and emergencies, will be met with criminal charges.

## 15. OPEN SPACE, ENVIRONMENTAL CONTROL – COMMUNAL AREA

- 15.1 The Association has the right and obligation to control the environment of the Reserve in terms of the Environmental Management.
- 15.2 No camping shall be permitted.
- 15.3 No fire shall be lit on the Reserve except in such places as may be designated for the purpose by the Association or in an approved and properly constructed fireplace or portable mechanism designed for this purpose.
- 15.4 The driving of motorised vehicles in the Common Area is confined to roads and driveways. Only maintenance vehicles with prior authorisation by the Association may be driven on the Common Area.
- 15.5 Littering in streets and open spaces is prohibited.
- 15.6 Any person present on the Communal Area or using any of the services, land, facilities or amenities of the Association does so entirely at his own risk. No person shall have any claim against the Association of whatsoever nature arising from such use, nor for anything which may befall any person during the course of such use, whether caused by human or animal agency, natural phenomena or otherwise. The Association shall not be liable for any injury, loss or damage of any description that any person may sustain, physically or to his property directly or indirectly, in or about the Area nor for any act done or for any neglect on the part of the Association or any of the Association's employees, agents or contractors.

## 16. BUILDING REQUIREMENTS AND CONSTRUCTION

- 16.1 The provisions of the constitution relating to the construction of buildings shall be strictly complied with.
- 16.2 Without limiting the generality of 15.1, no building or structure shall be erected on the Reserve unless the sketch plan submission requirements as set out in architectural guidelines have been met and the plans, specifications and construction thereof comply with the architectural guidelines.
- 16.3 The Association shall be entitled to direct the relevant owner to effect maintenance work on his home should the Association deem such maintenance necessary. Members are required to keep the exterior of their dwellings in a good state of repair and their Erven tidy. Should a dwelling fall into a state of disrepair, or should an Erf become unsightly, the Association shall call upon such Member to rectify the situation, detailing what remedies are required and giving the Member a reasonable period for commencement and completion. If the Member fails to comply with the Associations' requirements within the stipulated times, the Member shall be in breach of the Code of Conduct.

- 16.4 Every building contractor shall be required to abide by such rules and regulations as may be made by the Association controlling construction activities and to sign such prescribed undertaking as may be determined by the Association with regard thereto. A building contractor will not be allowed to undertake any building work on the Reserve until the undertakings referred to in this rule have been given.
- 16.5 Any building contractor who fails to sign the Contractors Code Conduct and/or fails to comply with the provisions thereof may be denied access to the Reserve.
- 16.6 The Trustee Committee shall impose a penalty on any Member who contravenes any provision of the Design Guidelines as follows:
- 16.6.1 The Trustees shall notify the owner in writing of the breach and give him/her ninety (90) days to rectify it.
- 16.6.2 Should the owner refuse or fail to remedy the breach, to the satisfaction of the Trustees, within the ninety (90) day period specified above, the Trustees may impose a penalty upon the owner of the Erf equal to double the amount of the normal monthly levy due by him or her as specified in terms of clauses 9.3 and 9.5 of the Constitution. The Trustees may impose this penalty, monthly, for the first three (3) months after expiry of the period mentioned in clause 9.14.1 of the Constitution.
- 16.6.3 A penalty of three (3) times the monthly levy shall be imposed, monthly, upon the owner of the Erf, should he/she continue to refuse or fail to remedy the breach.
- 16.6.4 Any penalty imposed in terms hereof may be added to the owner's levy account and claimed and recovered by the Association as part of the monthly levy payable by the owner.

## 17. LANDSCAPING AND POOLS

- 17.1 All gardens and pools must be maintained by members to the standards required by the Association and the Environmental Management Plan. Pools must be fitted with a recycling system that prevents pool backwash from entering surrounding vegetation. No pools may be backwashed into the vegetation.
- 17.2 Should these standards not be adhered to, the Association shall take such steps, as it may deem necessary in order to ensure that the required standards are adhered to and levy the relevant penalty for such contravention.
- 17.3 Only plants as allowed in the Architectural Guidelines may be planted in gardens.

- 17.4 When designing gardens owners must take into account the fact that small animals are present in the Reserve.

## 18. FIRE PREVENTION AND HAZARDOUS SUBSTANCES

- 18.1 No person shall bring or permit any person to bring any substances onto the Reserve or permit the storage of any substances on the Reserve which may constitute a fire hazard or a threat to the health of any of the residents or other person or which may result in the contamination of the Reserve.
- 18.2 No persons shall pollute or permit the pollution of the sea on or about the Reserve by any substance that may damage any plant, animal or bird life or which may in any way be unsightly.

## 19. ENFORCEMENT OF THE RULES

- 19.1 For purposes of the enforcement of any of the rules, the Association may:
- 19.1.1 take the relevant steps considered necessary to remedy the breach of the rule of which the member may be guilty, and levy the relevant charges to the member concerned, which amount shall then become due and payable to the Association;
  - 19.1.2 take such other action, including court proceedings, as deemed necessary.
- 19.2 In the event of any breach of the rules by any member's tenants, or his guests, such breach shall be deemed to have been committed by the member himself, but without prejudice to the foregoing, the Association may take or cause to be taken such steps against the person actually committing the breach as they in their discretion may deem necessary.
- 19.3 In the event of any member disputing the fact that he has committed a breach of any of the rules aforesaid, a committee of three members appointed by the Chairman of the Trustee Committee for that purpose, shall adjudicate upon the issue at such time and in such manner and according to such procedure as the Chairman may direct. The finding of the committee will be final and binding

## 20. FINES AND PENALTIES

- 20.1 In the event of annoyance, aggravation or complaints occurring between members, an attempt should be made by the parties concerned to settle the matter between themselves. This should be done with due consideration and tolerance. If the problem cannot be resolved, the matter should be brought in writing to the attention of the Association for an interpretation of the rules.
- 20.2 The Association shall investigate written complaints received from members relating to the behaviour and/or conduct of other residents and persons on or

about the Reserve and shall take such steps with regard thereto as it may deem fit.

- 20.3 The Association shall be entitled on its own initiative to investigate the conduct of any person or persons and to take such action as it may deem fit, whether or not complaints are received.
- 20.4 Any decision of the Association will be final and binding.
- 20.5 If any person contravenes or fails to comply with any of these rules or any conditions imposed by or directive given by the Association in terms of these rules, the Trustee Committee shall be entitled (without limiting any other rights afforded to them in terms of these rules) to impose suitable fines on the person concerned. If the person concerned is a guest, tenant or other invitee of the member, that member will be liable for payment of such fine. Any fine imposed on a member and/or his tenant, guest or other invitee shall be deemed a debt due and payable by the member concerned to the Association forthwith on demand.
- 20.6 The provisions of this rule are without prejudice to other rights that the Association may have in terms of the Constitution or at law

## 21. BREACH

Should any member commit a breach of this Constitution, the General Design Guidelines or the Conduct Rules by failing to pay on due date the levies or other amounts payable by such member in terms of this Constitution, the General Design Guidelines or the Conduct Rules, and remain in default for more than 7 (seven) days after written demand, the Trustee Committee may institute legal proceedings on behalf of the Association against such member for payment of such overdue levies or other amounts.

## 22. CONCLUSION

These rules act as a guidance to protect the rights, interests and investments of all stakeholders in the Cape St Martin Private Nature Reserve and in no way should be viewed as a punitive attempt to limit the rights of stakeholders.