

VILLA VALENCIA BODY CORPORATE

Management and Conduct Rules

(registered and filed in the Deeds Office originally in 1991 and updated in Nov 2016, Jan 2020 and June 2021)

Definition:

Management rules deal with the administrative functioning of the BC and include procedural requirements for the convening of BC and trustees' meetings, amongst other matters.

Conduct rules often have discipline issues and these rules relate to the "Do's and Don'ts" of the scheme and regulate how common property can be used and what can and cannot be done in an exclusive use area.

From a legal point of view, a management rule may not conflict with anything contained in the Act, while a conduct rule may conflict with neither a management rule nor the Act.

MANAGEMENT RULES:

The 1971 Sectional Titles Act introduced the system of rules. Rules under the old Act were contained in what was called Schedule 1 and Schedule 2 Rules, these being predecessors of the Annexure 8 and Annexure 9 Rules. The management rules are the *modus vivendi* of the body corporate; they set out the "HOW" and the "WHEN".

1. Financial year:

12 months, 1 November to 31 October each year.

The annual financial budget, inflation-adjusted and based on projected levy income and commensurate maintenance and operating expenses, is prepared and agreed by trustees in September, communicated in advance to the broader BC by 1 October and implemented on 1 November each year for the ensuing 12 month period ending 31 October.

The actual levy roll increase by unit PQ is ratified by members and formally adopted at the AGM held within two months in January of each year.

The determination and collection of levies is the duty of the trustees of the BC. Trustees, and not individual owners, are empowered to take decisions on whether or not to impose a levy increase or special levy regardless whether an owner disputes the necessity or financial wisdom of such a decision.

All levies must be paid, in advance, into the nominated Villa Valencia bank account, with or without demand, or to the trustees acting as treasurer, by no later than the 1st of each month. No reminders will be sent out and any levies not paid by the 15th of each month could be handed over for legal collection with costs accrual which will be for the account of the unitholder.

An unitholder in levy and/or water recovery arrears must pay on demand all charges, expenses and assessments that may be payable in respect of his section. Interest on overdue accounts may be determined and levied by the trustees.

2. Trustees:

The Act specifies a minimum of TWO (2) suitably qualified and experienced members, with no maximum being stated, may be elected and appointed as trustee office bearers for a period of ONE (1) year at the Annual General Meeting. A trustee does not have to be an owner, provided that the majority of trustees must be owners or spouses of owners.

Owners must hand in their written nominations, together with the written acceptance of the nominees, to the *domicilium* address of the BC at least 48 hours before the AGM. The management rules place obligations on trustees which are described fully in a separate "trustees' duties and powers" schedule.

Trustees cannot exceed their powers and cannot have conflicts of material interest whereby they stand to derive economic benefit from a relationship with the VV complex.

Trustees have a fiduciary relationship to fellow members and BC as a whole.

The law states that every trustee, agent or other officer or servant of the BC (excluding the managing agent), shall be indemnified by the BC against all costs, losses, expenses and claims which he/she may incur or become liable to because of his/her actions. This means that a trustee cannot be sued as they hold an indemnity but this does not cover trustee acts of dishonesty or gross negligence.

In summary, the trustees must: control, manage and administer the common property for the benefit of all owners, fairly and equitably.

The chairman is elected by his or her fellow trustees at the first meeting of trustees held immediately after the AGM.

The rules preclude a trustee who is an owner or the spouse of an owner from being paid to act as a trustee, except by special resolution of the BC.

The chairman will give notice of trustee meetings with an agenda and when to be held – minimally 4 meetings per financial year.

Trustees have a duty to keep meeting minutes, books of account and records, annual financial estimates and statements, trustee reports, perform an external financial audit and maintain available cash reserves in excess of R 20 000 at all times.

3. Bookkeeper or managing agent:

The BC has elected to contract and appoint a dedicated outsourced bookkeeper instead of a managing agent, with a mandate of preparing and maintaining monthly levy collections, expenses, banking records and financial account submissions to the trustees. The contract is automatically renewable annually unless terminated in writing with at least three months advance notice before the renewal anniversary date.

4. Meetings:

An AGM is to be held within 4 months of the financial year-end.

All meetings other than the AGM shall be called special general meetings for which required notice periods are: ordinary AGM is 14 days, special/unanimous resolutions is 30 days registered post.

Trustees may convene a general meeting if owners entitled to 25% of the total quota so request in writing.

Proceedings at general meetings and AGMs, quorum requirements, chairman, voting, proxies are described more fully in separate documents.

5. Owner's obligations:

Duties of owners and occupiers, in addition to obligations in terms of schedule 44 of the Act:

- shall not use a section or exclusive use area or any part of the common property in a manner or for such a purpose as shall be injurious to reputation of the building complex;
- shall not contravene any law, by-law, etc;
- shall not make alterations which are likely to impair the stability of the building or use and enjoyment of other sections, c.p. or other e.u.a.;

CONDUCT RULES

The overriding intention of rules governing the behaviour or obligations of owners, tenants or their families and guests is not to overregulate, but rather to actively foster and promote a sense of friendship and harmony for all the people who own and reside in the Villa Valencia BC.

1. Motor vehicles:

Motor vehicles of owners and their visitors may only be parked on common property parking areas intended for that purpose or in such a position that no obstruction will be caused to the flow of traffic or where no blocking of entrances to garages or buildings will be caused. Owners are requested, in general, to foremost park their vehicles in their garages or in the case of one extra third vehicle, park immediately outside one of their garages provided no obstruction is created, and to leave public parking bays near their dwellings for the use of visitors.

The repair or re-conditioning of vehicles on the property is not permitted.

Motor vehicles may only be washed immediately in front of the owner's section.

Vehicles may not travel at speeds in excess of 10 kph on any portion of the common property.

Other than to the tenants of an owner, no garage may be sublet to a third party.

2. Cycles, etc:

Bicycles, motorcycles, tricycles, skateboards and roller skates may not be left unattended on any portion of the common property. This also applies to caravans, trailers, boats, commercial vehicles and bakkies (exceptions to the rule will be considered by the trustees).

The use of soap-box carts, skate boards, roller skates, etc on the common property is permitted, to the extent that, no damage or disturbance is caused to unitholders.

3. Laundry:

Washing will, under no circumstances, be put in a position where it may be seen by the general public, visitors to other sections or other residents, e.g. over the balconies or walls.

4. Sanitary services:

Domestic refuse bins may not be visible from the common property and must be kept in the rear courtyard except when placed in the road on Msunduzi Municipal collections days.

Bagged refuse may not be stored at any stage, even temporarily overnight, in the TB gate postbox alcove.

Refuse may not be handled contrary to the regulations of the municipality.

Domestic refuse bins or bags may not be put out the night before collection days, but must be put out on the morning of collection day.

Garden refuse only may be deposited in the fenced off area on the property for collection and haulage to the municipal landfill dump by a private contractor as arranged by the BC.

5. Silence and noise abatement:

Unreasonable noise is prohibited by the BC before 08h00 and after 17h00 daily as well as between 12h00 and 17h00 on the common property on Sundays.

The use of electrically powered wood and metal working machinery likely to cause a noise disturbance to other owners is prohibited at the times mentioned in the foregoing clause and on Sundays.

Motor hooters may not be used in the common property and at the entrance TB and SF gates.

Radios, musical instruments, record players, TV sets, home movies etc. should be used or played in such manner as not to be heard in adjoining sections or on the common property and should not disturb or create a nuisance to other owners.

6. Gardening and plants in exclusive use area:

No plants, shrubs or trees may be planted, trimmed or removed on the common property unless prior written permission has been obtained from the trustees.

All common property gardening services shall be carried out by persons contracted and authorised by the trustees unless specifically agreed otherwise.

Exclusive use private gardens are the preserve of the unitholder in terms of design and plant selection but, reciprocally, must be kept neat, attractive and tidy at all times and must conform to the Villa Valencia ethos, aesthetics and general standards.

Garden tools or other equipment must not be kept in any place where it will be in view from other sections or any portion of the common property.

Braai equipment is not permitted to be used on the common property and is only permissible in front of a section when in use or in a rear enclosed courtyard.

7. Children:

Ball games are permissible on the common property (this includes children and adults), to the extent that, no damage or inconvenience to other sections is caused.

Unitholders are liable for the conduct of their visitors and they must ensure that all rules in terms of the Sectional Titles Act as well as Management and Conduct Rules are adhered to without exception.

13. Business activities:

Owners and/or tenants shall use their sections for residential purposes only. Permission from trustees is required for any other purpose whatsoever.

No auction sales, jumble sales or similar functions may be held in any section, nor shall the same be used for any business, professional or trade purposes.

No advertisements or public or political material may be exhibited or distributed anywhere on the property without the written consent of the trustees.

14. Swimming pool and river area:

The pool and surrounding area enclosed by the fence poles are for the exclusive use of owners, tenants and their guests. Guests must be accompanied by an owner or tenant while using these facilities. Owners, tenants and their guests are requested to avoid monopolising the pool area.

Trustees reserve the right to restrict the use of the pool.

No visiting dogs, or any other pets, are permitted in the pool area.

Common courtesy and regard for the rights of others are essential for the full enjoyment of these facilities by all. Owners are responsible for the behaviour of their guests. It is expected that everyone will use common sense regarding water safety and cleanliness.

Children under 8 years of age must be actively supervised by a person over 16 years of age. The swimming pool is used entirely at own risk and the BC is not responsible for any accidents and injuries, howsoever caused, in this area.

No glass objects or bottles are permitted in the pool area.

The only entrance to the pool area is through the gate provided. The gate must at all times be kept closed and the bolt lock engaged.

Unduly loud noise, including radios and record players, and profanity are not permitted.

All residents are requested to prevent any unauthorised person from using the pool and to report such use to a trustee.

Users of the pool are requested not to remove the suction cleaning device and its hoses as well as leaf trap from the pool and, as far as possible, to refrain from damaging or tampering with it while swimming.

In fairness to other users, urination in the pool water is forbidden and a sincere appeal is made to all users of the pool to keep the facility clean.

Access to the river embankment is restricted to adults and supervised children > 8 years of age, accompanied by a BC member at all times.

No picnicking or swimming is permitted in the river area.

15. Tennis court:

Should it prove necessary to lock the court, arrangements can be made through the trustees to obtain a key. Lost keys must be immediately reported to a trustee. Replacement keys can only be obtained from a trustee for a reasonable replacement charge.

Undue noise and shouting on the court is forbidden.

Children under 10 years of age are not allowed to use the court unless accompanied by any adult.

No cups, glasses, bottles, etc are permitted in the court area. All are requested to keep the court clean for the benefit of all.

No games that may reasonably be expected to damage the tennis court surface or netting are allowed to be played.

All players using the tennis court are requested to wear non-marking tennis shoes, and slacken the net after playing.

A booking list can be provided at the court if a specific time, not longer than one-and-a-half-hours, is required.

No owner, tenant or their guests and families should monopolise the court and in the event of demand, may not occupy the court for longer than one-and-a-half-hours on any given day.

16. Alcohol:

The public drinking of alcohol and/or consumption of prohibited substances in the common property areas, including swimming pool and river areas, are strictly forbidden and will lead to immediate eviction from the complex.

17. Water:

Each unit has an individual water meter installed. Meter readings are requested at quarterly intervals for the purpose of computing a unit's accurate water consumption over a 3 month period and recovery of these municipal charges from the unit concerned by our bookkeeper. The on-time submission of actual water meter readings is essential, not guestimates.

Any difference between the aggregate of individual meters and the municipal water metered feed to the complex meter is paid by the BC. It stands to reason that corporation water should be used sparingly.

Common property taps may not be used for anything other than garden watering and topping up of pool (when water restrictions do not apply).

18. Committees:

Trustees retain the right to call upon BC members to form committees and sub-committees for specific purposes, such as, projects.

19. Constitutionality:

Any management and conduct rule made by the BC shall always be reasonable, and shall apply equally to all owners of units put to substantially the same purpose.

The BC is ultimately responsible for making their own rules and also amending them from time to time. But these rules must be inherently constitutional, completely reasonable and not go against social morality and the values of society in general.

Moreover, rules must not infringe on the core of property rights and not undermine the foundations of our society in terms of member discrimination on the grounds of cultural motivation, race, gender, sexual orientation, age or creed.

20. General:

In addition to obligations in terms of the Act, an owner shall at all times and to the satisfaction of the trustees, whose decisions shall be final and binding:-

- repair and maintain his section and its exterior in a state of good substantial and tenantable repair and condition to the satisfaction of the trustees;
- notify, in writing, the BC via the trustees of any pending sale of a section or change of ownership or occupation of a section;
- in the event of change of ownership or tenant, the owner shall ensure that the buyer or new tenant shall sign a copy of the Management and Conduct Rules,

thus committing the purchaser to an undertaking to abide by the terms and conditions therein; such copy to be returned to the Chairman for filing;

- the number of permanent residents per section shall not exceed six unless the written consent of the trustees, under signature of the Chairman, has been obtained;
- a section shall be occupied permanently only by the owner thereof or their lawful tenant and members of his or the tenant's family, as the case may be;
- at all times an owner shall maintain his section in good, clean sanitary and habitable order and condition, and shall be responsible for all painting and maintenance inclusive of unblocking of drains and sanitary equipment and connections and repairs of whatsoever nature or causative agent;
- if a blockage in any sewerage or plumbing pipe occurs and the responsibility therefore cannot be allocated to any particular owner, the cost of removal or unblockage shall be borne by the BC;
- any and all plumbing and electrical work in, or any alteration to, or additions to any section, shall be effected only by suitably qualified and, where applicable, licensed or registered workmen or contractors subject to their signing of the General Arrangement for Contractors and Contractor's Indemnification;
- permit any person authorised, in writing, by the trustees after consultation with the owner, at all reasonable times on notice (except in the case of emergency when no notice shall be required) to enter his/her section for the purpose of contractual remedial work;
- shall not keep, do or permit to be done in his section or on the common property, anything (including installation of roof-mounted aircons) which will or might increase the rate of premium payable by the BC on its insurance policy;
- shall not erect any additional structure on the exterior or interior of his section without the written consent of the trustees, including TV dishes, solar heaters, sky lights, air cons, photovoltaic panels, security Trellidor-type gates or fencing, etc. and the colour relating thereto;
- air-conditioners shall not be installed in windows, or carports or awnings erected, without the express written permission of the trustees;
- private generators are allowed inside the complex for use strictly at times of protracted power outages, subject to the times and conditions expressed in the Addendum hereto.

ADDENDUM:

1. Generators:

In situations where a power outage is predicted to last a full 12hr/24hr day, generators are permitted to be used strictly between the hours of 08h00 – 18h00.

2. Roof maintenance expense:

A service level agreement exists as between Wilcote Midlands and Villa Valencia Body Corporate for the former to perform an annual inspection of roofs, skylights, valleys and gutters at each of 16 units. Wilcote shall submit a detailed written report on the condition of each roof to the trustees and where required, carry out small leakage repairs and resealant free of charge within Wilcote's annual maintenance inspection cost of R 14 000.00 incl, funded by a R 75.00 incl per unit debit monthly to each unitholder as a separate roof maintenance expense entry on the BC and individual unit levy roll. In the event that the inspection reveals an identifiable major roof repair or replacement, this situation and related cost of repair will be discussed with the unit owner in question and the repair performed by an agreed date at the unitholder's expense.

The debit of R 75.00 per unit per month will continue for a period determined by the trustees, but minimally for the next two years. If a unit section changes ownership, the monthly debit of R 75.00 incl per month will survive the transfer as a recurring cost for the new owner's account and be notarised as such in the sale agreement.

3. The Protection of Personal Information Act (POPIA):

The Act, which comes into effect on 1 July 2021, seeks to regulate and govern the manner in which companies and other commercial entities, including Sectional Title Scheme body corporates, source, collect, record, process, store, modify, consult, erase and destroy every single source of personal information in its secured data possession for the benefit of the Act authority, viz. Information Regulator.

Full POIPA compliance means that the body corporate must collect relevant personal information and store it safely under password-protection or Villa Valencia's Body Corporate (VVBC's) secure private cloud.

You are hereby notified that your personal information provided to VVBC will be collected and processed in accordance with the POPI Act, 4 of 2013, viz. between VVBC's nominated independent Information Officer only and member in strictest confidence.