



**SIBAYA COASTAL PRECINCT  
Umbrella Management Association**

**Rules of The Association**

**As adopted / amended**

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## **1. GENERAL**

### **1.1. General membership and levy obligations**

Every member shall sign a membership application form in the format prescribed from time to time by the Association. The member shall update the Association with any changes to the details provided in the form.

Any member seeking to alienate its property in the Sibaya Coastal Precinct shall ensure that the purchaser completes the membership application form. In addition, the Association shall issue a clearance certificate before transfer may be passed to the purchaser. Such clearance certificate shall not be issued unless the member is confirmed as being in good standing in respect of levy payments, the Articles of Association, the development manual and all rules of the Association. An administration fee of R1000, 00 plus VAT thereon will be levied for the issue of the clearance certificate. This fee includes an inspection of the property to confirm compliance with the requirements of the Association. Should the inspection reveal non-conformance with such requirements a list of outstanding matters will be forwarded to the member for rectification before issuance of the clearance certificate. The follow-up and any subsequent inspection required to confirm compliance will attract further charges of R1000, 00 (plus VAT) per inspection, which amounts shall be paid before the clearance certificate will be issued.

Levies shall be paid monthly in advance by means of a debit order system and all members shall sign the Association's debit order form when called upon to do so by the Association.

### **1.2. Actions of Tenants / Contractors / Agents**

Members are liable for the actions of their tenants / contractors / agents and any breach of any rule of the Association by a tenant or occupier of any land shall be deemed to have been committed by the Member, who shall be responsible for correcting the breach and for any penalty or fine imposed in terms of the rules.

### **1.3. Sectional Title Schemes**

Any sectional title scheme within the Sibaya Coastal Precinct shall include in its rules the following provision:

*"Notwithstanding anything contained herein or elsewhere it is recorded that the Rules of the Body Corporate, as set out herein, shall be subject to the provisions of the Memorandum and Articles of Association of the Sibaya Coastal Precinct Umbrella Management Association (hereinafter referred to as "the Association") and any Rules and regulations made in terms thereof. In the event of there being any conflict between the provisions of the Rules of the Body Corporate and the Memorandum, Articles or Rules of the Association, the Association's provisions shall apply in this regard.*

*Each member of the Body Corporate is obliged to become a member of the Association in accordance with the provisions of the Association's Articles of Association and shall at all times comply with the Association's Memorandum, Articles, Rules and Regulations.*

*In no way detracting from the generality of the aforesaid, it is recorded that each member of the Body Corporate shall be obliged to pay the Association a monthly levy calculated in accordance with the Association's Articles. This levy shall, as provided for in the Association's Rules, be collected by the Body Corporate on the Association's behalf and paid to the Association.”*

The rules of the body corporate of any sectional title scheme shall include the following restrictions in favour of the Sibaya Coastal Precinct Umbrella Management Association:

- a) An owner shall not attach to the external elevation of the building any aerial, satellite dish, washing line, air conditioner or any other fixtures.
- b) Air conditioning units, including all pipe work, may only be installed if they are screened from the street and adjoining buildings.
- c) No form of security gate, door or grille is to be attached to the exterior of any unit.
- d) Burglar guards or screening fixed internally, but visible externally are to be of a standard style and uniform colour throughout the sectional title scheme.
- e) No reflective film of any type or colour is to be used as a sun screening device on any window or door.
- f) External lighting is to comply with the approved building plans.
- g) Curtain linings are required to be of a standard colour throughout the sectional title scheme.
- h) No alteration to the exterior colour of the building may be made without the prior approval of the Sibaya Coastal Precinct Design Review Committee.
- i) Landscaping must be maintained to a standard acceptable to the Sibaya Coastal Precinct Umbrella Management Association.
- j) An owner shall not allow any linen or clothing to be hung on the outside of any section, including the balcony or out of windows.

Any member committing breach of the above rules shall be instructed to remedy such breach forthwith. Failure to comply with such instructions within a period of 7 days shall constitute a breach of the rule and render the member liable to a fine as follows:

- a) In respect to a) to i) above, a fine of R1000 or such other amount as the directors may determine from time to time for each 7-day period or part thereof that the member continues to be in breach of the rules. Should a member remain in breach for a period of more than three (3) weeks from the date of initial notification, the fine shall increase to an amount of R2000 a day.
- b) In respect of j) above, a fine of R1000 (or such other amount as the directors may determine from time to time) per incident.

Without in any way reducing the liability of each section holder as a member of the Association to pay the levy to the Association, it shall be the responsibility of the body corporate of any sectional title scheme laid out on any land within the precinct, to collect the aforesaid levy, due to the Association, from the body corporate's members, on the Association's behalf and to pay this amount over to the Association monthly in advance.

The body corporate of any sectional title scheme laid out on any land within the precinct shall be obliged to provide the Association with the names and addresses and other details of its members when requested to do so by the Association and to advise the Association of changes to such details.

## **2. SIGNAGE**

### **2.1. Introduction**

The control of signage is considered one of the prime factors in retaining the quality of the public environment and accordingly property values within the Sibaya Coastal Precinct. No member shall permit any exterior signage of any description to be erected anywhere on the building or property save as provided for in these rules.

An infringement of signage rules is considered an infringement of the integrity of the precinct itself and its branding as well as of the rights of businesses and residents in the area.

Contraventions of signage rules are accordingly viewed in a serious light and will be dealt with severely by the Association.

These signage rules shall be read in conjunction with the Articles of Association and Architectural Guidelines and in the case of any conflict between the rules and those documents, the provisions of the Articles of Association or Architectural Guidelines (as applicable) shall take precedence over the rules. The provisions of these rules shall at all times be subject to the signage bylaws of the local authority. Compliance with these rules shall not exempt any member from compliance with bylaws or other statutory provisions.

### **2.2. Penalties**

Any member committing a breach of any signage rule contained in this Clause (2) shall be instructed to remedy such breach forthwith. Failure to comply with such instruction within a period of seven (7) days shall constitute a breach of this rule and render the member liable to a fine of R1500-00 (Five hundred Rand) for each 7-day period or part thereof that he continues to be in breach of the rule. Should a member remain in breach for a period of more than three (3) weeks from the date of initial notification, the penalty shall increase to an amount of R1500- 00 (Five hundred Rand) per day.

Fines shall be calculated monthly and issued as part of the levy invoice. Amounts outstanding in respect of fines imposed on any member shall be treated in the same manner as outstanding amounts in respect of levies.

Any infringement of this Clause (2) occurring within a period of two (2) months of a prior notice in respect of the same infringement shall be considered a continuation of the prior infringement, and penalties applied accordingly.

In addition to the imposition of a fine, the Association shall have the right to remove any sign erected in contravention of these rules and to recover the cost of such removal from the member concerned. The right to impose these penalties is without prejudice to the Association's rights in terms of the law, the Contract of sale or the Articles.

### **2.3. Erection of Signage Outside Property Boundaries**

No member shall cause any sign, banner, flag or other similar item to be erected outside the boundary of his property, either on the property of another member, or of the Association or within the public roads and sidewalks within the precinct without first obtaining the written consent of the Association and (if applicable) the other member concerned.

The erection of any such sign without the required approval shall constitute a breach of this rule and render the member liable to the penalties described in Clause 2.2.

### **2.4. Permanent Signage**

All members shall formally submit a signage policy for their property for approval by the Design Review Committee of the Association. Such signage policy shall be updated as required from time to time and all such updates shall similarly be submitted for approval by the Design Review Committee. All permanent signage to be erected on any building shall be submitted for approval to the Design Review Committee, which will consider such application in terms of the Architectural Guidelines and the approved signage policy.

The erection of any permanent sign without the prior written approval of the Design Review Committee shall constitute a breach of this rule and render the member liable to the penalties described in Clause 2.2. It should be noted that approval of the Design Review Committee is a requirement over and above the requirement for Local Authority approval of all signage.

### **2.5. Prohibited Signage**

The following are prohibited forms of signage. Any member causing such signage to be erected on his property in any position adjoining or visible from any public area or area vesting in the Management Association, shall be guilty of contravening this rule and shall be liable to the penalties described in Clause 2.2.

- o Signage erected within window lines, whether painted onto the glass itself or separate signage applied to the glass.
- o Mobile trailer advertising

The following signage is similarly prohibited, but may be erected within the building in a designated showroom or retail area:

- o Teardrop freestanding banners.
- o Free standing temporary signboards.
- o Banners
- o Rotating (Whirligig) signs
- o Sandwich boards
- o Bunting
- o Sails
- o Posters
- o Balloons, blimps or other inflatable devices

Acknowledging the need for new businesses to establish their presence in the area, the Town Manager may, on application, grant prior written permission for specified departures from this rule for a period not to exceed three (3) months from the date of commencement of trading by any new business (whether a member or its tenant) within the Sibaya Coastal Precinct.

## **2.6. Flags**

The erection of flags is prohibited unless specifically approved by the Design Review Committee. In the event of such approval, the flags shall at all times be maintained in compliance with the conditions of approval and in a condition that in the opinion of the Precinct Manager is acceptable. In this regard it is specifically noted that the following are unacceptable:

- o Dirty or stained flags
- o Worn or faded flags
- o Frayed hems
- o Damaged eyelets
- o Jointed or frayed ropes
- o Corroded flagpoles
- o Bent or damaged poles

The Precinct Manager may give notice to any member to remedy any contravention in respect of maintenance of flags and flagpoles in terms of this clause. Failure to comply with such notice shall constitute a contravention of this rule and shall be subject to the penalties described in Clause 2.2.

## **2.7. Estate Agent / Broker Boards**

Boards erected by Estate Agents or Property Brokers shall comply with the following requirements:

- o Boards require the prior written consent of the member (land owner), a copy of which shall be forwarded to the Precinct Manager before signs are erected
- o Not more than two (2) agents or brokers boards are permitted on any site
- o Maximum size shall be 2400 x 1200 mm
- o The boards shall be maintained parallel and plumb and in a clean, undamaged condition at all times

- o Boards shall be removed within three (3) months of erection unless permission is granted by the Precinct Manager for an extension of the period.

The Precinct Manager may give notice to any member to remedy any contravention in respect of Estate Agent / Broker boards. Failure to comply with such notice shall constitute a contravention of this rule and shall be subject to the penalties described in Clause 2.2.

## **2.8. Signage on sites under development**

On any site under development, not more than one contractor's board, one professional board (i.e. a board listing the professional and project team employed on the works) and one development board shall be permitted. These shall comply with the following requirements:

- o Position and detail of the boards require the prior written consent of the Precinct Manager
- o Maximum size shall be 3000 x 2000 mm
- o The boards shall be maintained parallel and plumb and in a clean, undamaged condition at all times
- o Boards shall be removed within two (2) weeks of first occupation of the building.

The Precinct Manager may give notice to any member to remedy any contravention in respect of Developer / Contractor boards. Failure to comply with such notice shall constitute a contravention of this rule and shall be subject to the penalties described in Clause 2.2.

## **2.9. Security Company Signage**

Signage erected identifying any security company providing a security / response service to any member's property shall comply with the following:

- o Position and detail of the boards require the prior written consent of the Precinct Manager
- o Not more than two (2) security boards shall be permitted per business/tenant on any site
- o Maximum size shall be 450 x 450 mm
- o The boards shall be maintained parallel and plumb and in a clean, undamaged condition at all times

The Precinct Manager may give notice to any member to remedy any contravention in respect of Security Company Signage. Failure to comply with such notice shall constitute a contravention of this rule and shall be subject to the penalties described in Clause 2.2.

## **2.10. Directional/Information Signage**

Any miscellaneous directional/information signage erected on any property in the Sibaya Coastal Precinct in any position adjoining or visible from any public area or area vesting in the Management Association shall comply with the following requirements:

- o Position and detail of the signage require the prior written consent of the Precinct Manager
- o The signage shall be maintained parallel and plumb and in a clean, undamaged condition at all times

The Precinct Manager may give notice to any member to remedy any contravention in respect of Directional/Information signage. Failure to comply with such notice shall constitute a contravention of this rule and shall be subject to the penalties described in Clause 2.2.

## **3. USE OF SIDEWALKS**

### **3.1. Use of Sidewalk in the Absence of a Use Agreement**

Any member using any part of the sidewalk outside his property boundary in the absence of a formal Use Agreement with the Association shall be instructed to cease such activity forthwith. Failure to comply with such instruction shall constitute a breach, which shall be rectified by the member within a period of seven (7) days, failing which the member shall be liable to a fine of R500-00 (Five Hundred Rand) per day that he continues to be in breach of the rule. The right to impose the fine is without prejudice to the Association's rights in terms of the law, the Contract of sale or the Articles.

### **3.2. Use of Sidewalk in contravention of a Use Agreement**

If in the opinion of the Precinct Manager, any usage of any sidewalk is in contravention of the terms and conditions of a Sidewalk Use Agreement entered into between the member and the Association, the Precinct Manager shall instruct the member to modify such usage to comply with the relevant use agreement. Notwithstanding any other rights that the Association may have in terms of the Use Agreement, failure to comply with such instruction within a period of seven (7) days shall constitute a breach of the Agreement and render the member liable to a fine of R500-00 (Five hundred Rand) per day that he continues to be in breach.

## **4. CONSTRUCTION**

### **4.1. General construction provisions**

It is in the interests of the Association's members and their tenants that the conduct and performance of on-site contractors are exemplary throughout the Sibaya Coastal Precinct development. To this end it is required that certain matters related to tendering and construction procedures are regulated by the Association.

Whether a negotiated or open tender, the nature of any construction tender is to be reported to the Association. The Association may require that an additional contract governing due performance be entered into between the member and the Association.

All construction work shall be subject to an Environmental Management Plan (EMP), which shall be submitted to and approved of by both the Management Association and the Local Authority. The member shall be liable for ensuring strict compliance with such EMP.

In the case of all developments and irrespective of tender procedures and the proposed appointment of a successful tenderer, it is required that the Association receives a full report on the successful tenderer and the position regarding bank guarantees. Where the successful tenderer's work is unknown to the Association, the Precinct Manager may require such contractor to apprise the Association of previous work.

In all instances a cash deposit to be determined by the Directors currently set at:

- a) R200 000 if paid in cash (any interest to accrue to the Association); or
- b) R250 000 if in the form of a guarantee. Such guarantee is to be an irrevocable and unconditional guarantee from a registered South African Bank and is to in a form acceptable to the Association;

is to be lodged with the Association to cover damages to the public and semi-public domain, failure to comply with the Association's conditions of plan approval or to complete the contract satisfactorily. The Design Review Committee may require that the retention be provided before plan approvals are granted. In all cases the retention shall be provided before the site will be handed over to the developer for construction to commence.

Where, in the opinion of the Precinct Manager, the risk of or actual damage to public infrastructure renders the standard deposit insufficient, the Precinct Manager may require an additional deposit to be lodged with the Association.

A Clerk of Works, at the discretion of the Association, may be appointed to ensure due performance of contractors in respect of the interests of the Association. The Clerk of Works or in the absence of such appointment, the Town Manager, shall report to the Design Review Committee in this regard.

#### **4.2. Procedures before construction commencement**

Prior to commencing any construction work, members are to furnish to the Association, for approval by the Town Manager, full particulars of the following:

- contractors' intended site establishment,
- arrangements for contractors' entrances, materials and plant storage,
- fencing and hoarding details,
- site office arrangements,
- any proposed encroachment by construction activities beyond the site boundaries and how these are to be managed

- ❑ security of the site and ensuring security for adjacent sites,
- ❑ contract and commercial signage
- ❑ site management procedures including provisions relating to hire of casual labour and to vendors supplying the on site labour force

In addition, on commencement of construction and as construction proceeds, members shall furnish the Precinct Manager with updated copies of work programmes and sub contractors' responsibilities to enable the Precinct Manager to monitor progress and report back to the Design Review Committee.

#### **4.3. Site demarcation and enclosure**

For all sites, specific site demarcation and enclosure is required. The following provisions apply in this regard:

- ❑ A 1.8m high shade cloth screen and fence capable of protecting the public from dust, excessive noise, falling debris or other construction-related hazards shall be erected prior to commencing work on site.
- ❑ The entire face of any structure under construction facing onto any public area shall be screened with shade cloth or other means to prevent falling dust or debris from presenting a hazard or nuisance to adjoining properties and the public.
- ❑ Substantial, lockable gates shall be provided at approved access / egress positions.
- ❑ The hoarding and screening shall be maintained in a good condition free of posters, advertising, graffiti and be neat at all times.
- ❑ Should the Design Review Committee consider that special hoardings are required in any circumstances, including covering over sidewalks and other areas where members of the public or environmentally sensitive areas may be at risk from building activities, its decision shall be binding on the member, who shall ensure that all such requirements are complied with.
- ❑ Unless issued with a permit from eThekweni Municipality, a copy of which is to be lodged with the Management Association, permitting the use of any part of the road reserve or adjacent parking (if applicable), the hoarding must be maintained on the property boundary.
- ❑ In the areas of road access servitudes, details of hoardings both above and to the sides of these areas must be submitted to and approved by the Design Review Committee prior to erection.
- ❑ These rules shall be regarded as prescribing minimum requirements. Compliance herewith shall not absolve a member from compliance with any more onerous requirements that may arise from the EMP or the local authority.

#### **4.4. Contract and development signage**

Contract and development signage is to comply with the relevant signage rules included in Clause 2.8 above. The member shall acquaint himself with such rules and ensure that his professional team and contractors are made aware thereof. Members are encouraged to make use of the Sibaya Coastal Precinct logo and branding.

#### **4.5. Miscellaneous construction provisions**

The site shall be kept tidy and in a workmanlike condition at all times and building works, whether permanent or temporary, may not encroach onto any adjacent site or the public domain without the prior written consent of the Precinct Manager.

All building work/storage/delivery/offices is to be conducted within the site, as defined by the diagram and boundary pegs.

Construction is permitted during the following hours:

Monday to Friday : 06h00 to 18h00

Saturday : 08h00 to 13h00

Sunday and public holidays : No construction permitted

Should a relaxation of these hours be required, application is to be made to the Management Association.

Failure to comply with the construction hours will result in a fine of R5000 per occasion. This cost will be deducted from the deposit paid in terms of clause 4.1.

The uploading and storage of building materials is only permitted on-site, within the hoarding and any materials unloaded outside of the hoarded area will become the property of the Sibaya Umbrella Association and shall be removed and sold.

No street may be used for the delivery, lifting, storage or handling of any equipment or material. Use of adjoining properties for delivery, lifting, storage or handling of any equipment or material or temporary site offices will not be permitted without the written permission of the landowner. A copy of the owner's permission must be lodged with the management association.

No building or excavated material shall be dumped anywhere within the Sibaya Coastal Precinct or adjacent areas without the prior written consent of the Precinct Manager. Any excavated material or building material dumped on adjoining streets and/or properties without consent is to be removed immediately and area cleaned and reinstated by the member. If the member fails to clean and reinstate the area, the Precinct Manager will arrange for such cleaning and the costs will be paid or recovered from the member. In addition, the member will be fined an amount of R5000 per infringement and the costs will be deducted from the deposit paid in terms of clause 4.1.

All landscaping and infrastructure surrounding the site, whether above ground (lampposts, signs, roads and sidewalks, etc.) or buried (Services lines, irrigation, ducts etc.) shall be protected at all times. The member shall be responsible to ensure that his development team acquires all services layouts and prove all services before commencement of work. Owing to the fact that construction frequently takes place on zero building lines, members are specifically warned that lateral support structures will generally be required around basement or other excavations.

Any damage to any infrastructure shall be immediately notified to the Precinct Manager, who will undertake necessary repairs to the account of the member. In addition a fine of R5000 per occasion will be imposed and such costs will be deducted from the deposit in terms of clause 4.1.

No water run off onto adjacent sites or public areas around the site shall be permitted.

Members shall implement steps to control wind blown dust generated from construction sites and mud / dust deposited on surrounding roads during construction to the approval of the Precinct Manager. In this regard:

- a) Vertical screening to the full height of the building is to be erected and maintained on all exposed elevations of the development ahead of the casting of each level so that damage, dust and views into adjoining properties is controlled.
- b) The member shall be responsible for the removal of any building debris, including mud, sand, concrete and the like on roads adjacent to the member's property. In this regard, the Management Association will provide, at the members cost, the required number of labourers to ensure that any foreign material deposited in the public road and sidewalks is removed immediately.

Any damage caused by the member, his contractors, sub-contractors and suppliers to the road surface on adjacent roads shall be remedied by the member as per the primary developers engineers. The repairs will also be carried out the supervision of the engineers.

Any damages to adjacent properties will be repaired immediately and not left until the end of the contract.

The member shall employ at least one security guard for both a day and night shift for the period that the building is under construction until occupation takes place. The security guard shall have communication to a response facility. It is also recommended that the security guard is employed from the same service provider utilized by the Sibaya Umbrella Management Association. To maintain a secure environment, the member shall ensure that continuous and adequate communication takes place between his security service provider and the Sibaya Umbrella Management Association's service provider.

For security purposes, the construction site shall, for the duration of the construction period, be illuminated after dark. The minimum requirement is that the ground level and all levels below ground level shall have adequate illumination to make it possible to walk through the area without additional illumination.

The Association may from time to time prescribe penalties applicable in the event of any of these construction provisions being transgressed. The member shall be held responsible for the actions of all contractors, sub contractors and suppliers engaged in the construction works and shall be liable for the costs of any repair or fine arising from these provisions.

#### **4.6. Completion and sign off**

On completion of the contract, the Design review Committee will carry out an inspection of the site and, if satisfied, issue a Certificate of Compliance in respect of the overall site. Such certificate is a prerequisite for official hand over or occupation of the building and for repayment of the retention noted in 4.1 above.

### **5. DESIGN REVIEW SUBMISSION FEES**

#### **5.1. Scrutiny fees**

As provided for in the Development Manual, scrutiny fees of R30 000 shall be payable by any applicant seeking review of plans by the Design Review Committee. The full fee shall become due and payable before consideration of the plans at Site Development Plan stage.

The scrutiny fee described above shall entitle the applicant to five separate design review meetings / on-site inspections. Any additional review required shall attract an additional charge of R5 000 per review session.

In the event of failure of any applicant to pay the fees before submission, the Association may refuse to consider the application or may elect to add the submission fee to the member's levy obligations.

#### **5.2. Signage**

A scrutiny fee of R3000 (excluding VAT) shall be payable by any applicant seeking review and approval of signage by the Design Review Committee.

