

## **CONSTITUTION OF THE CAPE ST FRANCIS CIVIC ASSOCIATION**

Any reference in this Constitution to the masculine gender shall include a reference to the feminine and any reference to the singular shall include reference to the plural and vice versa, unless the context indicates otherwise.

### **1. NAME**

The name of the Association shall be:

**“The Cape St Francis Civic Association”.**

Hereinafter referred to as “the Association”.

### **2. ADDRESS**

The postal address of the Association shall for statutory purposes be that of the Secretary or at any other place that the Executive Committee may designate. For ordinary correspondence the address shall be as appears on the letterhead of the Association.

### **3. LEGAL IDENTITY & PERSONA**

The Association is an “*universitas personarum*”, an independent legal persona or entity, distinct from the individuals who compose it, having capacity of acquiring rights of property, of incurring obligations and of suing or being sued in its own name and having perpetual succession.

Neither members nor the Executive Committee nor any sub-committee of the Association shall be answerable for the debts, engagements, liabilities or obligations of the Association nor for any loss suffered by any person as a result of acts or omissions committed by the Association in good faith.

### **4. NON-PROFIT DISTRIBUTING CHARACTER**

The income and property of the Association shall be used solely for the promotion of its stated objectives. The members and the office-bearers shall have no rights to the property or other assets of the Association solely by virtue of them being members or office-bearers. No portion of the income or property of the Association shall be paid or distributed directly or indirectly to any person (otherwise than in the ordinary course of undertaking any public benefit activity) or to any member of the Association or Executive Committee, except as:

4.1 reasonable compensation for services actually rendered to the Association;

4.2 reimbursement of actual costs or expenses reasonably incurred on behalf of the Association.

## 5. OBJECTIVES

The Association shall not be aligned to any political party or other structure, and its elected or co-opted management shall avoid becoming embroiled in party political disputes.

The objectives of the Association shall be:

- 5.1 to observe the Constitution of South Africa at all times; to establish a civic organisation to act in accordance with section 5 of the Municipal Systems Act No 32 of 2000;
- 5.2 to promote, enforce and safeguard the interests and rights of the ratepayers and/or residents of the membership area as defined in Clause 6.1.
- 5.3 to conserve the environment, beauty, character and heritage of the membership area; to uphold the “keep it clean, keep it green, keep it small” principles.
- 5.4 to foster interaction among ratepayers and residents through membership of the Association, and to increase understanding of civic issues and develop a sense of civic pride;
- 5.5 to interact with, and to serve as a means of communication to, all spheres of government;
- 5.6 to keep a watching brief over Municipal policies and affairs, to evaluate them according to the highest principles of good local government and to influence the Kouga Municipality and other spheres of government and parastatal organisations, to adopt policies, frame regulations and make decisions acceptable to members;
- 5.7 to promote and facilitate interaction with other organisations having similar objectives;
- 5.8 to give effect to these objectives in implementing the wishes of its members.
- 5.9 Contribute, where possible, to the skills development and job creation for underdeveloped individuals and communities in our area.
- 5.10 Help ensure the security and safety of the community

## 6. MEMBERSHIP

- 6.1 Membership of the Association shall be open to all registered property owners and/or residents over the age of eighteen years in the membership defined as the municipal area demarcated as “Cape St Francis.”
- 6.2 A registered property owner is defined as the registered ratepayer or his/her nominee duly authorised in writing.
- 6.3 A resident is defined as any person domiciled or ordinarily resident within the membership area.

- 6.4 The list of members shall not be divulged to anyone who is not a member of the Executive Committee unless so authorised by the Executive Committee.
- 6.5 A member of the Association who has rendered outstanding service to the local community may be granted honorary life membership by resolution of a General Meeting. Particulars in support of such a proposal shall be included in the notice convening the meeting.
- 6.6 Application for membership of the Association shall be made on the Association's "Application for Membership" form and accompanied by the annual subscription preferably paid by EFT or direct deposit into the bank account of the Association at the same time. Other forms of payment, i.e. cash and cheques will be accepted, but not encouraged. By signing the membership form the member undertakes to abide by the constitution of the Association.
- 6.7 Only fully paid-up members shall be entitled to:
- (i) Take part in discussions at all meetings.
  - (ii) Vote at meetings.
  - (iii) Be eligible for membership of the Executive Committee.
  - (iv) Nominate or second candidates for the Executive Committee.
  - (v) Vote for members of the Executive Committee.
- 6.8 Membership shall cease should a member:
- (i) Resign in writing.
  - (ii) No longer meets the requirements of clause 6.1
  - (iii) Fail to renew his/her subscription before the Annual General Meeting.

## **7. MANAGEMENT**

- 7.1. The affairs of the Association shall be managed by a Executive Committee (EC) consisting of not less than 5 (five) and not more than 8 (eight) members, as determined at the relevant Annual General Meeting (AGM) or a general meeting and who shall be elected at the AGM or general meeting. Any paid-up member of the Association may make him/herself available for election.
- 7.2. In the event of its transpiring that the EC consists for a period of time of less than five (5) members, the actions of the Executive Committee shall nevertheless be lawful subject to further members being co-opted or appointed within a period of 90 days from the date upon which the number of the EC fell below five (5)
- 7.3. Members of EC shall be elected for a period of one year. Any serving Committee member shall be eligible for re-election, and does not require re-nomination, providing that willingness to stand for re-election is confirmed in writing.

- 7.4. The EC shall immediately after the annual election elect from its members a Chairperson and a Vice-Chairperson, (who shall be ipso facto Chairperson or Vice-Chairperson of the Association) a Secretary & a Treasurer. The positions of Chairperson and Vice-Chairperson shall not be held for longer than three (3) years in any continuous period.
- 7.5. Subsequent to an election, the EC may nominate and at a subsequent EC meeting co-opt persons to fill any vacancy arising through resignation or other cause.

## **8. POWERS OF THE EXECUTIVE COMMITTEE**

- 8.1. The EC may perform such acts as are necessary to accomplish the objectives expressed or implied in Clause 5 and which may be legally accomplished by an universitas personarum. Without in any way limiting the generality of the foregoing, such powers shall include but not be limited to the following:
- 8.1.1. the operation of banking accounts with all powers required by such operations;
  - 8.1.2. the investment and re-investment of monies of the Association not immediately required, in such a manner as may from time to time be determined by the EC;
  - 8.1.3. the making of, entering into and carrying out of contracts or agreements for any of the purposes of the Association;
  - 8.1.4. the employment and compensation of service providers
  - 8.1.5. the right to sue and to defend actions in the name of the Association and to appoint legal representatives for this purpose;
  - 8.1.6. the levying of a subscription payable by members as determined by the EC from time to time.
  - 8.1.7. the appointment of any sub-committee with members drawn from EC and other persons, under the chairmanship of a EC member, and granting such powers to it as may be considered necessary.
- 8.2. The Association is pledged to be non-political and non-commercial, thus any member of EC, having any financial, political or business interest in any matter under discussion, must declare such interest and recuse him/herself from such discussions by the EC and any vote thereon.
- 8.3. No person holding political office shall be eligible to act on EC but may attend meetings in an advisory capacity.
- 8.4. No member of EC or any sub-committee shall be entitled to use his/her position on such committees to promote his/her financial and/or business interests, or to use for such purposes confidential information obtained through his/her position.

- 8.5. No member of the EC or sub committee or office bearer of the Association shall have any personal right over any asset of the Association.

## **9. CONDUCT OF EXECUTIVE COMMITTEE MEETINGS**

- 9.1. The EC shall hold at least one ordinary meeting every two (2) months.
- 9.2. The quorum for an EC meeting shall be 60% of its members, present personally or by proxy.
- 9.3. The EC may, at its discretion, enlist from time to time supernumeraries for their expertise in certain matters, who shall not however have voting power.
- 9.4. Special Meetings may be called by the Chairperson or, in absentia, the Vice-Chairperson, and shall be called if so requested by three (3) members of the EC.
- 9.5. Any member of the EC who fails to attend three consecutive meetings without justifiable leave of absence shall forfeit his/her office.
- 9.6. At meetings of the Executive Committee each member shall have one (1) vote. Questions arising shall be decided by a majority of votes. Should there be an equality of votes the Chairperson shall have a casting or second vote.
- 9.7. Matters and other topics that require regular consideration may be dealt with in the first instance by portfolio sub-committees appointed by EC in terms of Clause 8.1.7.
- 9.8. Minutes of the EC meetings shall be recorded and kept safely for consultation by members.
- 9.9. A resolution signed by all members of the Executive Committee shall be as valid as if passed at a duly convened meeting of the Executive Committee.

## **10. TERMINATION OF MEMBERSHIP OF EXECUTIVE COMMITTEE**

- 10.1. The EC may terminate the membership of any person who is no longer qualified to be a member or whose subscription is more than three calendar months in arrears.
- 10.2. The EC may on good cause or breach of the Constitution by a member terminate his or her membership provided that such member may, within ten days of this action, note an appeal against such decision, which shall be considered at the next General Meeting of Association members or at a Special General Meeting convened for this purpose.
- 10.3. An Executive Committee member shall cease to hold office if:
- i. by notice in writing to the EC he/she resigns his/her office;
  - ii. he/she becomes of unsound mind;
  - iii. he/she surrenders his/her estate as insolvent or his/her estate is sequestrated;
  - iv. he/she is convicted of any criminal offence which involves dishonesty;

- v. by resolution of a General Meeting of the Association he/she is removed from his/her office.

## 11. GENERAL MEETINGS

The Annual General Meeting (AGM) of members of the Association shall be held in once a year within six (6) months of the end of the financial year at a place, date and time fixed by the EC .

- 11.1. The business of an Annual General Meeting shall include:
  - i. the presentation and adoption of the Annual Report of the Chairperson;
  - ii. the consideration of the Annual Financial Statements;
  - iii. the election of members to serve on the Executive Committee for the following year;
  - iv. the appointment of a registered accountant
  - v. other matters as may be considered appropriate.
- 11.2. Fourteen (14) calendar days' notice shall be given to members for all General Meetings.
- 11.3. A quorum for The Annual General Meetings shall be 10 members. If no quorum is present at the AGM within ½ hour from the start, the AGM is automatically adjourned to the same day, time and place the following week. No notice of such adjourned meeting need be given to members.
- 11.4. If the meeting is automatically adjourned due to a lack of quorum, and on the second meeting date, there is still no quorum present within one half hour from start of the meeting, then the eligible voters present in person or proxy constitute a quorum.
- 11.5. Special General Meetings may be called by the EC, and shall be called when requested in writing by not less than ten (10) members of the Association. The notice calling such a meeting shall be issued within 7 days of the request and shall set out in full the names of the members calling for the meeting and the business to be transacted. Only such business may be transacted at the meeting. In the case of a special general meeting called by requisition of members, if no quorum is present upon the date fixed, and within 1/2hour after the time fixed for the meeting, it shall be dissolved.
- 11.6. Voting at all General Meetings may be held by either a show of hands or by the secret completion of bona fide voting papers, should this be ordered by the Chairperson or requested by ten (10) or more members present. Save for motions dealing with amendments to the constitution or termination of the Association, a simple majority vote shall prevail. Nevertheless, the Chairman shall endeavour to arrange that resolutions are worded in a way that will achieve broad consensus.

- 11.7. When voting for the election of members of the EC each member in good standing may vote for any number of candidates up to a maximum of eight (8).
- 11.8. Nominations in writing for new candidates for election to the EC, with the names of proposer and seconder and acceptance of nomination by the candidate, must be received by the Association not less than 7 days before the AGM. Notice of the closing date for nomination of candidates for election to the EC must be sent to members not later than fourteen days before the AGM. As per clause 6.3 any serving Committee member shall be eligible for re-election, and does not require re-nomination, providing that willingness to stand for re-election is confirmed in writing.
- 11.9. Minutes of all meetings shall be recorded and kept safely, and be available for members to consult.
- 11.10. Notices
- i. Notice of all meetings provided for in this Constitution, shall be delivered via electronic notification to the last address or mobile number notified by each person concerned to the Association, or in any other manner as the Executive Committee may decide from time to time.
  - ii. The accidental omission to address notice/s to any person shall not invalidate the proceedings of any meeting.

## **12. MEMBERS VOTING RIGHTS**

- 12.1. Only members of the Association who have paid their annual subscriptions for the current financial year at least one (1) week previously shall be entitled to vote at any General Meeting of the Association.
- 12.2. The owner and spouse/life partner of one or more properties shall be entitled to membership and votes, i.r.o. one (1) property only, notwithstanding the number of properties in the owner's possession.
- 12.3. Where one or more properties are registered in the name of more than one person, a company, trust, or close corporation, not more than two persons of the owners shall be entitled to membership, with not more than two votes, notwithstanding the number of owners or properties.
- 12.4. A member of the Association shall be entitled to appoint a proxy to speak and vote on his/ her behalf at General Meetings. A proxy appointment must be in writing, signed by the member and delivered to the Secretary not less than twenty four (24) hours prior to the scheduled meeting. The proxy need not be a member of the Association.

### **13. FINANCE**

- 13.1. The Association, through the EC, shall be empowered to raise funds from members by way of subscriptions and/or other methods so approved in order to conduct the affairs of the Association on a competent and sound financial basis.
- 13.2. All funds shall be deposited to the credit of the Association with a registered deposit receiving institution.
- 13.3. The Chairperson, Vice-chairperson, Treasurer and two other nominated members of the EC shall have signing authorisation rights and the right to operate the bank account on behalf of the Association
- 13.4. All expenditure must, where possible be previously approved by the EC. Petty cash expenditure, which shall not exceed two hundred and fifty rand (R250.00) shall be approved at the EC following meeting.
- 13.5. At the end of each financial year financial records prepared by the Treasurer shall be submitted for scrutiny to a Registered Accountant, who shall prepare the annual financial statement in the Standard Accounting form. The statement shall be approved by the EC before submission to the Annual General Meeting for ratification.
- 13.6. The financial year of the Association shall run from the first day of October to the last day of September of the following year

### **14. AMENDMENTS TO THE CONSTITUTION**

- 14.1 Any alterations, additions, or amendments to this Constitution must be passed by a two-thirds majority vote of those present at a General Meeting of the Association.
- 14.2 Notice of any proposed alteration, addition, or amendment must be given in writing to members fourteen (14) days prior to the AGM or a general meeting

### **15. TERMINATION OF THE ASSOCIATION**

- 15.1 A 75% (seventy-five percent) vote shall be required at an Annual General Meeting or Special General Meeting to dissolve the Association
- 15.2 In the event of such a dissolution, all funds and property belonging to the Association, or held in trust on its behalf, shall after paying of any debts, forthwith be transferred by authority of the Special General Meeting to :
  - i. FOSTER providing that they remain in compliance with Public Benefit Organisation regulations
  - ii. alternatively another public benefit organisation which has been approved in terms of section 30 of the Income Tax Act ; or c)any institution, board or body which is



exempt from tax under the provisions of section 10(1)(cA)(i) of the Income Tax Act, which has as its sole or principal object the carrying on of any public benefit activity.

#### **16. AUTHORITY IN CASES OF URGENCY**

Should a matter arise requiring the immediate action by the EC and there is insufficient time available to call a meeting of the EC, the Chairperson shall, after consulting at least three other members of the EC, take such action as may be determined upon by him or her. The Chairperson shall report thereupon at the next meeting of the EC to seek endorsement of his/her action. The Chairperson shall be recused from the vote of endorsement by the members of The EC.

The Chairperson may appoint the Vice-chairperson to undertake this function if he/she is unable to do so.

#### **17. PUBLIC STATEMENTS**

Public statements may be made only by the Chairperson, the Vice-Chairperson and by a member of the EC who has been so authorised.

#### **18. CORRESPONDENCE**

- 18.1 General correspondence: Correspondence issued on behalf of the Association shall be on the Association's letterhead and shall be signed by the Chairperson or the Vice-Chairperson or a member of the EC who has been authorised to do so. Correspondence shall contain no reference to personal interests.
- 18.2 Correspondence with regard to litigation: Any proposed correspondence shall be resolved by the EC.

#### **19. INDEMNITY**

Subject to the provisions of any relevant statute, members of the Executive Committee and other office bearers shall be indemnified by the Association for all acts done by them in good faith on its behalf. It shall be the duty of the Association to pay all costs and expenses which any such person incurs or becomes liable for as a result of any contract entered into, or act done by him or her, in his or her said capacity, in the discharge, in good faith, of his or her duties on behalf of the Association.

Subject to the provisions of any relevant statute, no member of the Management Committee and or other office bearer of the Association shall be liable for the acts, receipts, neglects or defaults of any other member or office bearer, or for any loss, damage or expense suffered by the Association, which occurs in the execution of the duties of his or her office, unless it arises as a result of his or her dishonesty, or failure to exercise the degree of care, diligence and skill required by law.

**20. DISPUTES**

In the event of a serious disagreement between the members of the Executive Committee and/or the Association regarding the interpretation of this constitution then any two (2) Executive Committee members or any five (5) members of the Association shall be entitled to declare a dispute. Such declaration shall be in writing, state the issue in dispute, and be addressed to the Executive Committee.

The Executive Committee shall consider such declaration within two (2) weeks of receiving it. Should the Executive Committee not be able to resolve the dispute to the satisfaction of the person(s) declaring it, the dispute shall be referred either to a mediator or arbitrator.

Should the dispute be referred to a mediator, the person(s) declaring the dispute and the Executive Committee must agree on a suitable mediator and to the costs of such mediation. A mediator may recommend an appropriate resolution of the dispute.

In the absence of agreement regarding a mediator or should mediation not resolve the dispute, the dispute shall be referred to arbitration. The arbitrator shall be such suitably qualified person/s as the person(s) declaring the dispute and the Executive Committee may mutually agree. Alternatively, each of the parties shall be entitled to nominate one arbitrator, who shall act jointly with a third person to be nominated jointly by the respective nominees of the parties; on the basis that a majority decision of the appointed arbitrators shall be final and binding.

The arbitration shall be held on an informal basis, and the arbitrator shall have the power to determine the procedure to be adopted subject to principles of natural justice.

The arbitrator may base her/his award not only upon the applicable law but also upon the principles of equity and fairness.

The person(s) declaring the dispute and the Executive Committee, beforehand, may agree to share the costs of the arbitration. In the absence of such agreement the arbitrator shall decide which parties shall be liable for the costs.

The decision of the arbitrator shall be final and binding upon all parties and capable of being made an Order of Court on application by any of them.

**21. ADOPTION**

This constitution was adopted at the annual general meeting held on:

This \_\_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_

Signed by:

\_\_\_\_\_

CHAIRPERSON

\_\_\_\_\_

SECRETARY