



# BIRNAMWOOD ECO VILLAGE



BIRNAMWOOD  
ECO VILLAGE

BIRNAMWOOD PROPERTY  
OWNERS ASSOCIATION

# 1. Full Draft Constitution

## Constitution of the Birnamwood Eco Village Property Owners Association (POA)

### 1. Name

The Association shall be known as the **Birnamwood Eco Village Property Owners Association** (the “Association” or “POA”).

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### 2. Legal Status

- 2.1 The Association is a separate legal entity with perpetual succession, the ability to contract, own property, sue and be sued.
- 2.2 Members shall not be personally liable for the Association's debts beyond their levy obligations.
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### 3. Objectives

The objectives are to:

- Manage and administer Birnamwood Eco Village in Merrivale Heights.
  - Maintain common infrastructure, eco-features, security, and services.
  - Enforce the Design Code, Conduct Rules, and Environmental Rules.
  - Promote harmonious, sustainable, and secure community living.
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### 4. Membership

- 4.1 Every registered erf owner is automatically a member of the POA.
- 4.2 Membership is compulsory and binds each owner to this Constitution, rules, and decisions of the POA.
- 4.3 Each erf has **one vote**, regardless of size.
- 4.4 Transfer of ownership automatically transfers membership.

## 5. Governance Structure

### 5.1 General Meetings

- **AGM** within 3 months of financial year end.
- **Special General Meetings** on trustee resolution or request by 25% of members.
- **Quorum:** 30% of members in good standing.

### 5.2 Trustees

- 5–7 trustees elected at AGM for 2-year terms.
  - Chairperson, Treasurer, and Secretary to be elected internally.
  - Trustees responsible for day-to-day management, budgets, contracts, and enforcement of rules.
  - Trustees have fiduciary duties to act in good faith and for the benefit of all members.
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## 6. Decision-Making

6.1 Trustee resolutions: simple majority, Chairperson has casting vote.

6.2 General Meeting resolutions: simple majority unless special.

6.3 Special resolutions (75%): amendments, levy formula changes, disposal of Association property.

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## 7. Levies

7.1 Levies fund the Association's operational and capital costs.

### 7.2 Formula:

- Each erf pays an equal base levy.
- The **Remaining Extent of Portion 140 of the Farm Drie Fonteinien No. 952** (“the Parent Property”) shall be deemed **one erf** for levy purposes.
- The Parent Property may be charged up to **1.5× the base levy**, if approved at a General Meeting, but never in proportion to land size.

7.3 Special levies may be raised with member approval.

7.4 Non-payment may incur interest and suspension of benefits.

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## 8. Financial Management

- Financial year: 1 March – end February.
- Trustees prepare an annual budget for AGM approval.
- Annual financials must be independently reviewed or audited.
- Members may inspect records on notice.

## 9. Estate Rules

### 9.1 Design Code

All buildings must comply with the Design Code and be approved by the POA.

### 9.2 Conduct Rules

Rules may regulate behaviour, pets, landscaping, eco-friendly practices, etc.

### 9.3 Enforcement

Trustees may fine or sanction members after fair process.

### 9.4 Reserved Rights – Parent Property

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- (a) The **Parent Property** (Remaining Extent of Portion 140 of the Farm Drie Fonteinien No. 952) retains the right to submit **rezoning, consent use, and building plan applications** at any time.
  - (b) By becoming a member of the POA, **all other owners irrevocably waive any right to object** to such applications.
  - (c) These rights bind all future owners in perpetuity.
  - (d) Statutory authorities retain their jurisdiction, but only they (not POA members) may object or impose conditions.
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## 10. Common Property & Services

The POA manages security, roads, landscaping, signage, and common eco-features.

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## 11. Dispute Resolution

- 11.1 Internal mediation first.
  - 11.2 If unresolved, arbitration under AFSA.
  - 11.3 Arbitration decision final and binding.
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## 12. Amendments

Requires 75% approval at a General Meeting.

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## 13. Dissolution

Assets to be transferred to a similar association or local authority. No distribution to members.

## 2. Draft Title Deed Condition (Servitude / Restriction)

This wording should be lodged via your conveyancers when opening the township register or transferring erven:

**“Every transferee of an erf in the Birnamwood Eco Village acknowledges that the Remaining Extent of Portion 140 of the Farm Drie Fonteinen No. 952, Registration Division FT, KwaZulu-Natal, shall at all times be entitled to lodge applications for rezoning, consent use, or building plan approvals with the competent authorities, and every such transferee irrevocably waives any right to object thereto. This condition shall be enforceable in perpetuity as a condition of title against each erf in the Birnamwood Eco Village.”**

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## 3. Implementation in Sales

- **Best Practice:** The waiver and reserved rights must appear in **three places**:
  1. **Constitution of the POA** (already drafted).
  2. **Title Deed condition** (so that it is binding in perpetuity, even if POA rules are amended later).
  3. **Agreement of Sale** (to give notice to buyers upfront).
- In the **Sale Agreement**, you should insert a clause:

**“The Purchaser acknowledges that the property described as the Remaining Extent of Portion 140 of the Farm Drie Fonteinen No. 952 retains development rights, including future re-zoning and building plan applications, and the Purchaser irrevocably waives any right to object to such applications. The Purchaser further acknowledges that this waiver is incorporated into the constitution of the Birnamwood Eco Village Property Owners Association and will be registered as a condition of title.”**





# BIRNAMWOOD ECO VILLAGE

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