

# **CONSTITUTION OF THE FRIENDS OF MUIZENBERG PARK**

## **1. INTRODUCTION**

- 1.1. Muizenberg Park is a community park in Muizenberg, Cape Town owned by the Cape Town City Council.
- 1.2. This Constitution is to govern the operation and activities of a Friends association, which is hereby constituted to enhance and assist in the maintenance of the Park.

## **2. ESTABLISHMENT OF FRIENDS GROUP**

- 2.1. There is hereby established an association of persons known as the Friends of Muizenberg Park [hereafter referred to as the "Friends"].

## **3. DEFINITION OF MUIZENBERG PARK AREA**

- 3.1. For all purposes of this Constitution, the term "Muizenberg Park" shall constitute a reference to the geographical area of the Park bounded by Main Road, Camp Road, Boyes Drive, Seaview Road and School Road.

## **4. LEGAL STATUS**

- 4.1. The Friends of Muizenberg Park is, and shall continue to be, a distinct and separate legal entity, separate from its members and its Committee, having perpetual succession and having the power to acquire, hold and dispose of property of any kind, and with the capacity to acquire rights and incur obligations. Members or office bearers of the organisation do not have rights over assets of the organisation.
- 4.2. The sole object of the Friends of Muizenberg Park is to carry on one or more public benefit activities in a non-profit manner and with an altruistic or philanthropic intent.
- 4.3. Only duly authorised members of the Committee as defined in sub-clause 7.1 shall have the power to bind the Friends.

## **5. OBJECTIVES OF THE FRIENDS GROUP**

The main objectives of the Friends of Muizenberg Park are the following, namely: -

- 5.1. To ensure the public enjoyment, conservation and sound management of Muizenberg Park, by, inter alia:
  - [a] representing the interests of all regular users of Muizenberg Park and the public generally;
  - [b] fostering and promoting public awareness of, and respect for, Muizenberg Park;

- [c] protecting, through lawful means and wherever possible, Muizenberg Park against actual or threatened degradation due to any cause, and particularly, the erosion of its boundaries;
  - [d] creating awareness of the historical, cultural, social and ecological importance of the park, and where necessary liaising with the relevant authorities for the preservation of historical, cultural, social or ecological values;
  - [e] participating in formal planning activities in the South Peninsula Sub-council area where proposed or approved development may impact on the park or its surrounds;
  - [f] contributing where appropriate to the conservation, improvement and maintenance of Muizenberg Park.
- 5.2. To encourage and promote the formation of an active team of people to assist in carrying out the objectives of the Friends from time to time.
- 5.3. The Friends of Muizenberg Park, and in particular the Committee, shall have full powers to fulfill the objectives set out in sub-clauses 5.1 and 5.2.
- 5.4. The objectives set out in this clause 5 are not intended in any way to be exhaustive, and may be supplemented or amended at any time in the manner provided for in this Constitution.

## **6 MEMBERSHIP**

- 6.1 Membership of the Friends of Muizenberg Park shall be open to any person subscribing to the objectives of the Friends as currently set out in clause 5.
- 6.2 Where a member of the Friends is an organisation [corporate membership], such organisation shall nominate an individual to act as its representative, and such representative shall, subject to the provisions of this Constitution, be entitled to all rights, benefits and privileges of membership of the Friends.
- 6.3 The Committee shall have the right to levy subscriptions upon members of the Friends in such amounts as they may from time to time deem fit, and which shall be payable by members at such intervals as the Committee may determine.
- 6.4 Any member of the Friends shall be entitled to resign from the Friends at any time; provided always that such members shall nonetheless be liable for all unpaid subscriptions due as at the date of their resignation.
- 6.5 Membership of the Friends may be withdrawn by the Committee if the conduct of that member, acting as a Friend, departs from the objectives of this Constitution.

## **7 MANAGEMENT OF THE FRIENDS OF MUIZENBERG PARK**

- 7.1 The management of the Friends shall be vested in a Management Committee [the "Committee"] which shall be elected every year.
- 7.2 The Committee shall have the power to do all things lawful to give effect to the aims and objectives of the Friends.
- 7.3 The Committee shall consist of a maximum of 12 elected members with voting rights. Only members of the Friends with voting rights can be elected to the Committee.
- 7.4 The term of office of members of the Committee shall be two years. At the end of each year of office, one third of the elected members will automatically resign. However such members may be re-elected.
- 7.5 The procedure for election of the Committee members at Annual General Meetings shall be the following, namely:-
- [a] any member may, seconded by another member, nominate any other consenting member for the Committee in accordance with clause 8.4; and

- [b] election shall be by majority vote made on a show of hands at a meeting at which a quorum is present.
- 7.6 The Committee shall, from its ranks, elect a Chairperson, Deputy Chairperson, Treasurer and Secretary, together with such other office bearers as the Committee may from time to time deem fit. The Committee shall also have the power to co-opt any consenting member of the Friends to the Committee, and who shall serve on the Committee for such period as the Committee may require, or until the next Annual General Meeting where this election has been ratified.
- 7.7 The Committee shall be entitled to carry out its functions by appointing sub-Committees with various portfolios, and each such sub-Committee shall have the power to co-opt any consenting member of the Friends to assist in the management of such sub-Committee. Each sub-Committee shall, as far as possible, prepare a report on its activities for submission to each Committee meeting.
- 7.8 No member of the Committee shall be entitled to receive any reward for his services.
- 7.9 The Friends may not give any of its money or property to its members or office bearers. The only time it can do this is when it pays for work that a member or office bearer has done for the Friends. The payment should be a reasonable amount for the work done.
- 7.10 Committee meetings shall take place as frequently as may be necessary for the attainment of the aims and objectives of the Friends. Decisions of the Committee shall, where possible, be taken by consensus of all members, but failing which, shall be decided by a majority of votes. In the case of an equality of votes, the Chairperson shall have a second or casting vote. A Committee member may, and the Secretary of the Committee shall, at the request of a Committee member, at any time summons a meeting of the Committee. Unless absent from the Republic of South Africa, any Committee member shall be entitled to receive notice of all meetings of the Committee.
- 7.11 The quorum necessary for the transaction of business at a meeting of the Committee shall be three [3] members.
- 7.12 A resolution in writing agreed to by all the Committee members present at the time shall be as valid and effective as if it had been passed at a meeting of the Committee duly called and constituted.
- 7.13 The Committee shall keep proper minutes of its meetings, which shall be recorded in a minute book kept for that purpose and which shall be retained by the Secretary.
- 7.14 At least three persons, who are not connected persons in relation to each other as defined in the Income Tax Act 1962 [Act 58 of 1962], will accept fiduciary responsibility for the Friends, and no single person directly or indirectly controls the decision-making powers relating to the organisation.

## **8. GENERAL MEETINGS**

- 8.1 A general meeting of members of the Friends shall be convened:-
- [a] by the Committee as it deems necessary; or
- [b] upon a written request of not less than ten [10] ordinary members of the Friends being handed to the Secretary. Any such request shall contain full particulars of the business to be transacted at the meeting requested.
- 8.2 At least fourteen [14] days' notice shall be given to members of all general meetings, such notice to specify the place, day and time of the meeting and the general nature of the business to be transacted.
- 8.3 The Annual General Meeting of the Friends shall be held not later than three [3] months after the close of the financial year of the Friends, being the last day of March each year.
- 8.4 The notice convening an Annual General Meeting shall call upon members who may wish to bring any motion forward for consideration at the Annual General Meeting, or to nominate a member to the Committee, to notify the Secretary in writing of the terms of such motion or nomination by not later than four [4] days before the date appointed for the holding of such meeting.
- 8.5 The business to be transacted at each Annual General Meeting shall be:-

- [a] to review and consider the report of the Chairperson, and the balance sheet and the accounts for the previous financial year;
  - [b] to elect members to the Committee where appropriate;
  - [c] to transact any business brought under consideration by the Committee;
  - [d] to consider any motion properly brought before the meeting by a member in terms of this Constitution; and
  - [e] to consider any other business which, in accordance with this Constitution and in the opinion of the Chairp ought properly to be dealt with at a general meeting of the Friends.
- 8.6 A quorum for a general meeting, including an Annual General Meeting, shall be ten [10] members personally present. Should there be insufficient members to constitute a quorum, the meeting shall stand adjourned at the same time and place seven [7] days later when the members present shall constitute a quorum.
- 8.7 Except for the question of amendments to this Constitution which is dealt with in the provisions of clause 9, all matters before any general meeting shall be decided by a simple majority on a show of hands. In respect of every question put to a general meeting, every member shall have one vote, save that in the case of an equality of votes, the Chairman shall have a second casting vote.
- 8.8 Voting by proxy shall under no circumstances be permitted.

## 9 **AMENDMENTS TO CONSTITUTION**

- 9.1 This Constitution may be amended only by formal resolution of a general meeting properly constituted and at which a quorum is present, by a two thirds majority of members present at such meeting; provided always that all amendments shall be in accordance with the objectives of the Friends.
- 9.2 A copy of any amendment to this Constitution must be submitted to any relevant authority or organisation that may be affected or interested in such amendment.

## 10 **RESPONSIBILITIES**

The members of the Friends shall, in pursuance of the objects set out in this Constitution, use their best endeavours at all times to:-

- 10.1 Hold meetings, promote activities, organise projects and carry out any appropriate activities to further these objectives.
- 10.2 Liaise regularly with the owning or administrative authorities in charge of the Park for, inter alia, the following purposes, namely:-
- [a] to establish and maintain the rights of users of the Park and to ensure that these rights are not abused;
  - [b] to further the objectives of the Friends; and
  - [c] to establish a co-operative and mutually beneficial relationship with such authorities specifically with a view to benefiting from all expertise and information possessed and accumulated by these authorities in their administration of Muizenberg Park.
- 10.3 Participate in and/or organise meetings with other Friends Groups with a view to exchanging any information and expertise which may assist in the attainment of the objects of the Friends.

## 11 **FINANCIAL ADMINISTRATION**

11.1 All finances of the Friends shall be handled by the Committee, which shall:-

[a] open and operate an account in the name of the Friends of Muizenberg Park at a bank or similar financial institution as defined in section 1 of the Financial Services Board Act, 1990 [Act No 97 of 1990];

[b] collect and receive monies, including subscriptions and donations from members and the general public, for purposes of meeting the essential running costs of the Friends and in promoting its aims and objectives;

[c] deposit into the bank account opened by it, all monies paid to it, forthwith upon receipt;

[d] ensure that proper accounting records are maintained and, where required, audited for the Friends.

11.1. Funds available for investment may only be invested with a financial institution as defined in section 1 of the Financial Services Board Act, 1990, and in securities listed on a stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 [Act No 1 of 1985].

11.2. The Friends will not knowingly permit itself to be used as part of any transaction, operation or scheme of which the sole purpose is or was the reduction, postponement or avoidance of liability for any tax, duty or levy which, but for such transaction, operation or scheme, would have been or would become payable by any person under the Income Tax Act or any other Act administered by the Commissioner for the South African Revenue Service.

11.3. Donations may not be accepted if they are revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation; provided that a donor may not impose conditions which could enable such donor or any connected person to derive some direct or indirect benefit from the application of such donation.

## 12 **FUNDRAISING**

12.1 The Friends may raise funds for projects and to further the objectives of the Friends.

12.2 The Friends may register with the appropriate authority in order to obtain a fundraising number.

## 13 **DISSOLUTION OF THE FRIENDS GROUP**

13.1. The Friends may close down if at least two-thirds of the members present and voting at a general meeting convened for the purpose of considering such matter, are in favour of closing down.

13.2. Should it be decided that the Friends be dissolved, and upon dissolution of the Friends there remains, after settlement of all debts and liabilities of the Friends, any monies whatsoever, such monies shall be distributed to one or more non-profit organisations with objectives compatible with those of the Friends as set out in Clause 5. All assets not already committed for use in the Park Area shall be similarly transferred.

## 14 **EMPLOYMENT OF ADVISERS**

14.1 The Committee shall be entitled, in its sole discretion, to appoint such advisers, whether professional or otherwise, to assist it in carrying out its tasks in terms of this Constitution as it may from time to time deem fit.

## 15 **INDEMNITY**

- 15.1 All members of the committee shall be indemnified against all losses, costs and damages which they or any of them may suffer in respect of the funds of the Friends by reason of the bona fide exercise and discharge by them of the powers and duties conferred and imposed upon them under this constitution.

16 **INTERPRETATION OF CONSTITUTION**

- 16.1 This Constitution shall always be construed so as to give effect, where possible, to the objectives of the Friends.