

ST JAMES PARK APARTMENTS
OWNERS CORPORATION NO 1 PS 814089S

1 Definitions

1.1 In these rules:

- (a) **“Building”** means all buildings and improvements within the Plan of Subdivision.
- (b) **“Caretaker”** has the meaning given in rule 13.
- (c) **“Manager”** means the Manager for the time being appointed by the Owners Corporation under Part 6 of the OC Act.
- (d) **“Plan of Subdivision”** means plan of subdivision PS 814089S.
- (e) **“Security Key”** means a key, magnetic card or other device used to open and close doors, gates or locks in respect of a lot or the common property.
- (f) **“Owners Corporation”** means Owners Corporation No. 1 PS 814089S and includes, where the context permits, the Manager.
- (g) **“OC Act”** means the *Owners Corporation Act 2006* (Vic).
- (h) **“OC Regulations”** means the Owners Corporation Regulations 2007 (Vic).

1.2 Unless the context otherwise requires:

- (a) headings are for convenience only;
- (b) words imparting the singular include the plural and vice versa;
- (c) an expression imparting a natural person includes any company, partnership, joint venture, association or other Owners Corporation and any governmental authority; and
- (d) a reference to a thing includes part of that thing.

1.3 The obligations and restrictions in these rules shall be read subject to the rights, grants or privileges that may be given to any person or persons by the Owners Corporation from time to time and to the extent of any inconsistency, any such rights, grants or privileges, prevail over these rules in respect of the person or persons to whom they are given.

2 Health, safety and security

Model rules 1.1, 1.2 and 1.3 in Schedule 2 of the OC Regulations do not apply.

2.1 Health, safety and security of lot owners, occupiers of lots and invitees

A lot owner or occupier of a lot must not do anything, which may prejudice the security or safety of the common property, including without limitation:

- (a) leave open or permit to remain open any outside door providing access to the Building; and

- (b) prop open or allow to remain propped open any doors providing access to the Building.
- 2.2 A lot owner or occupier of a lot must not allow persons to follow them through the security doors to the Building or into the pool, garden and dining areas (if applicable).
- 2.3 A lot owner or occupier of a lot must take particular care to ensure unauthorised vehicles do not enter the car park; lot owners or occupiers must not proceed to their designated car space until the door is fully closed and they check that no vehicle has followed them
- 2.4 The Owners Corporation may take measures to ensure the security and to preserve the safety of the common property and the lots affected by the Owners Corporation from fire or other hazards and without limitation may:
 - (a) close off any part of the common property not required for access to a lot on either a temporary or permanent basis or otherwise restrict the access to or use by lot owners or occupiers of any part of the common property;
 - (b) permit to the exclusion of lot owners and occupiers, any designated part of common property to be used by any security person as a means of monitoring security and general safety of the lots, either solely or in conjunction with other lots;
 - (c) restrict by means of a Security Key the access of lot owners or occupiers;
 - (d) restrict by means of a Security Key the access of the lot owners or occupiers of one level of the lots to any other level of the lots; and
 - (e) cancel any Security Key issued where a lot owner is in arrears in payment of Owners Corporation levies in excess of two quarters.
- 2.5 If the Owners Corporation restricts the access of the lot owners and occupiers under rule 2.3, the Owners Corporation may make the number of Security Keys as it determines available to lot owners free of charge. The Owners Corporation may charge a reasonable fee for any additional Security Key required by a lot owner.
- 2.6 A lot owner of a lot must exercise a high degree of caution and responsibility in making a Security Key available for use by any occupier of a lot and must use all reasonable endeavours including without limitation an appropriate stipulation in any lease or licence of a lot to the occupier to ensure the return of the Security Key to the lot owner or the Owners Corporation.
- 2.7 A lot owner or occupier of a lot in possession of a Security Key must not without the Owners Corporation's written consent duplicate the Security Key or permit it to be duplicated and must take all reasonable precautions to ensure that the Security Key is not lost or handed to any person other than another lot owner or occupier and is not to dispose of otherwise than by returning it to the lot owner or the Owners Corporation.
- 2.8 A lot owner or occupier of a lot must promptly notify the Owners Corporation if a Security Key issued to him is lost or destroyed. The lot owner or occupier will be responsible for reimbursing the Owners Corporation any necessary cost of maintaining security including the cost of changing locks and providing new security devices for all lots.
- 2.9 A lot owner or occupier of a lot must not install a lock box or similar security box on the common property. The Owners Corporation reserves the right to install a lock box or similar security box on the common property for the purpose of providing access to authorised persons.

2.10 Safety of children

A lot owner or occupier of a lot must ensure all children are supervised by an adult in all recreational areas.

2.11 Storage of flammable liquids and other dangerous substances

- (a) A lot owner or occupier of a lot must not:
 - (i) except with the written consent of the Owners Corporation, use or store on the lot or common property any flammable chemical, liquid, gas or other flammable material other than chemicals, liquids, gases or other material intended to be used for domestic purposes or in the fuel tank of a motor vehicle; or
 - (ii) do or permit anything, which may invalidate or suspend any insurance policy effected by the Owners Corporation or cause any premium to be increased without the prior written consent of the Owners Corporation.

2.12 Waste Disposal

- (a) A lot owner or occupier of a lot must not:
 - (i) deposit or throw garbage onto the common property except into a receptacle or area specifically provided for that purpose if applicable);
 - (ii) throw or allow to fall or permit or suffer to be thrown or to fall any paper, rubbish, refuse, cigarette butts or other substances whatsoever out of the windows or doors or down the staircase or from the balconies. Any damage or cost for cleaning or repair caused by breach of this rule shall be borne by the lot owner or occupier concerned;
 - (iii) dispose of any explosive or dangerous goods; or
 - (iv) dispose of any hard waste in any part of the common property including the bin area.
- (b) A lot owner or occupier of a lot must dispose of garbage in the manner specified by the Owners Corporation from time to time but otherwise:
 - (i) glass items must be completely drained, cleaned and deposited in unbroken condition in the area designated for such items by the Owners Corporation, (if applicable);
 - (ii) recyclable items, (including paper, cardboard and plastic) as from time to time nominated by the Owners Corporation must be stored in the area designated for the items by the Owners Corporation (if applicable);
 - (iii) all other garbage must be drained and securely wrapped in small parcels deposited in the garbage chute (where one is provided) situated on the common property (if applicable); and
 - (iv) all cardboard boxes and packaging must be broken down and neatly packed in the garbage area (if applicable).
- (c) The owner or occupier of a commercial lot (if applicable) must:
 - (i) manage, store and dispose of garbage and trade waste generated in the course of business by the owner or occupier within the commercial lot at their own cost and expense; and

- (ii) not use any receptacle or area designed or specifically provided by the Owners Corporation for storage or disposal of garbage by the Apartment Lots without the consent of the Owners Corporation.

2.13 False Alarm

A lot owner or occupier must pay any charges by any fire authority associated with the activation of a smoke detector in the lot owner or occupier's lot or in the common property or from a false alarm otherwise occasioned by the lot owner or occupier or any other person for whom the lot owner or occupier could be held responsible.

3 Management and Administration

Model rule 2.1 in Schedule 2 to the OC Regulations does not apply.

3.1 Management and administration of common property and services

- (a) A lot owner or occupier of a lot must promptly notify the Owners Corporation or the Manager on becoming aware of any damage to or defect in the common property or any personal property vested in the Owners Corporation.
- (b) A consent given by the Owners Corporation under these rules will, if practicable, be revocable and may be given subject to conditions including, without limitation, a condition evidenced by a minute of a resolution that the lot owner or occupier for the time being of the lot to which the consent or approval relates is responsible for compliance with the terms of the consent.
- (c) Any complaint or application to the Owners Corporation must be addressed in writing to the Manager, or where there is no Manager, the secretary of the Owners Corporation.

3.2 Metering of Services and apportioning of costs of services

- (a) The Owners Corporation may share among the members in the Owners Corporation the costs of supply and maintenance of any gas facility or power facility required for heating or air-conditioning to the whole of the Building or any common property.
- (b) Where any lot is not separately metered in relation to any service including gas, electricity and/or water, then the lot owner shall pay a proportion of such service and supply charges relating to same on a proportional rate by dividing the lot liability of that lot by the total lot liability of all lots serviced jointly and by no other reference.

4 Use of Common Property

Model rules 3.1, 3.2 and 3.3 in Schedule 2 to the OC Regulations do not apply.

4.1 Use of Common Property

Except for the purposes of maintenance and renewal and with the written consent of the Owners Corporation, a lot owner or occupier of a lot must not do anything or permit anything to be done on or in relation to that lot or the common property so that:

- (a) any support or shelter provided by that lot or the common property for any other lot or the common property is interfered with;
- (b) the structural and functional integrity of any part of the common property is impaired; or

- (c) the passage or provision of services through the lot or the common property is interfered with.
- 4.2 A lot owner or occupier of a lot:
- (a) must not keep any animal upon a lot or the common property after being given notice by the Owners Corporation to remove such animal once the Owners Corporation has resolved that the animal is causing a nuisance;
 - (b) must ensure that any animal belonging to them does not urinate or defecate on common areas including internal court yards;
 - (c) must ensure that no animals are allowed in the gardens, swimming pool, spa, tennis court, gymnasium or dining area (if applicable).
- 4.3 A lot owner or occupier of a lot shall not mark, paint or the like, or otherwise damage or deface any structure that forms part of the common property without the approval in writing from the Owners Corporation, but this rule does not prevent a lot owner or person authorised by him from installing any locking device for protection of the lot against intruders and complying with any stipulations of the Manager from time to time.
- 4.4 A lot owner or occupier of a lot:
- (a) must not move any article likely to cause damage or obstruction through common property without first notifying the Owners Corporation or the Manager in sufficient time to enable a representative of the Owners Corporation or the Manager to be present; and
 - (b) may only move an article likely to cause damage or obstruction through common property in accordance with directions of the Owners Corporation, the Manager or the Manager's representative.
- 4.5 Without limiting the generality of the foregoing rules, a lot owner or occupier of the lot may only move items through the garage lift lobby (if applicable) or other area specifically designated by the Owners Corporation.
- 4.6 A lot owner or occupier of a lot must not, without the prior written consent of the Owners Corporation, remove any article from the common property placed there by direction or authority of the Owners Corporation and must use all reasonable endeavours to ensure that those articles are used only for their intended use and not damaged.
- 4.7 The lot owner or occupier of a lot shall compensate the Owners Corporation in respect of any damage to the common property or personal property vested in the Owners Corporation caused by that lot owner or occupier or their respective tenants, licensees or invitees.
- 4.8 **Use of Equipment, Services and Amenities on Common Property**
- (a) A lot owner or occupier of a lot must:
 - (i) not use or interfere with any fire safety equipment except in the case of all emergency and must not obstruct any fire stairs or fire escape; and
 - (ii) ensure compliance with fire laws in respect of the lot.
 - (b) A lot owner or occupier of a lot must not, without the written authority of the Owners Corporation or the Manager, interfere with the operation of any equipment installed on the common property.

4.9 A lot owner or occupier must ensure that any Building security video surveillance system, located in common areas, is not tampered or interfered with at any time.

4.10 Vehicles and parking on common property

- (a) A lot owner or occupier of a lot must not:
- (i) park or leave a vehicle on common property so as to obstruct any driveway entrance to a lot, or in any place other than in a parking area specified for such purpose by the Owners Corporation;
 - (ii) park or permit to be parked any vehicle, trailer or motor cycle other than within parking spaces designated by the Owners Corporation and the Owners Corporation reserves the right to remove offending vehicles, trailer or motor cycles;
 - (iii) permit oil leakages from any motor vehicle, trailer or motor cycle onto common property or their lot and must reimburse the Owners Corporation for the cost of cleaning and removing any oil stains to the garage or other part of the common property;
 - (iv) permit bicycling, roller blading, skate boarding, roller skating, ball games or children to play in the car parking areas, driveways or access pathways or any part of the common property;
 - (v) interfere with the operation, function or control of the electronic automatic doors or gates;
 - (vi) wash any vehicle in any area or car parking space or on the common property whatsoever; or
 - (vii) exceed 5km speed limit in the car parking areas.
- (b) Lot owners or occupiers must not park either temporarily or permanently in visitor's spaces (if any). Tow away rules may apply and will be enforced.
- (c) Commercial lot (if applicable) owners or occupiers must not allow their guests to park in car spaces designated for guests of residential lot owners or occupiers and vice versa (where applicable).

4.11 A lot owner or occupier of a lot must not:

- (a) permit any bicycle to be stored other than in the areas of the common property designated (if any) by the Owners Corporation or the Manager for such purpose and fitted with bicycle racks;
- (b) store bicycles or other articles on balconies or exteriors of the lots or on any common property or otherwise permit any bicycle to be brought into a lot or the foyer, stairwells, lifts (if any), hallways, garden areas, walkways, balconies or other parts of the common property as may be designated by the Owners Corporation or the Manager from time to time; and
- (c) bring bicycles or any other mobility devise, unless required for health reasons, through the common property with the exception of the basement car park.

4.12 A lot owner or occupier of a lot:

- (a) must not breach nor permit the regulations as stipulated from time to time by the Owners Corporation to be breached in respect of the use of the recreational and surrounding designated areas;

- (b) must ensure that all of their visitors are accompanied by a resident in all recreational areas; and
- (c) accepts that utilization of all recreational facilities is at their own risk.

4.13 **Drying laundry on common property or external or visible areas of Lots**

A lot owner or occupier of a lot must not hang or permit to be hung any clothes or other articles on any balconies, landing, stairway or any other part of the common property or on any part of the exterior of the lot so as to be visible from outside the lot.

4.14 **Public Access and Use of Common Property**

- (a) A lot owner or occupier of a lot acknowledges that the Owners Corporation may make rules, decisions, directions and undertake actions concerning the use of the common property for access by members of the public (with or without bicycles and vehicles) to and from any lot affected by the common property.
- (b) The Owners Corporation is responsible for the arrangements and for the ongoing management and maintenance of the common property used by the members of the public (with or without bicycles and vehicles) to and from any lot affected by the common property including, without limitation:
 - (i) appoint a manager to prepare, manage and administer the ongoing management and maintenance of the common property used by the members of the public;
 - (ii) appoint an organising committee to organise, manage and administer the ongoing management and maintenance of the common property used by the members of the public;
 - (iii) obtain such approvals and permits required to hold for the ongoing management and maintenance of the common property used by the members of the public;
 - (iv) to ensure that access stairs and ramps leading from outside of the common property to the common property are available for use for the ongoing management and maintenance of the common property used by the members of the public;
 - (v) to pay charges, fees, and costs for any approval, permit or services provided due to the cost of having resources and monitoring conditions in connection with the ongoing management and maintenance of the common property used by the members of the public;
 - (vi) to close off or restrict any part of the common property not required for access by the public; and
 - (vii) permit, to the exclusion of a lot owner or occupier of a lot, any designated part of the common property to be used by the members of the public.
- (c) A lot owner or occupier of a lot must:
 - (i) abide by any decisions, directions and actions taken by the Owners Corporation in connection with for the ongoing management and maintenance of the common property used by the members of the public;
 - (ii) not do anything or permit anything to be done which will interfere with actions taken by the Owners Corporation in connection with the ongoing management and maintenance of the common property used by the members of the public;

- (iii) not object to works (including without limitation, repair maintenance and redevelopment) being undertaken by the Owners Corporation in connection the ongoing management and maintenance of the common property used by the members of the public, provided the Owners Corporation uses reasonable endeavours to minimise disruption and use to the use and enjoyment of the lot owner or occupier's lot; and
- (iv) not bring any action or make any claim or objection against any party in relation to noise, construction, development, activity or performance in connection with the ongoing management and maintenance of the common property used by the members of the public.

5 Lots

Model rule 4 in Schedule 2 of the OC Regulations does not apply.

5.1 Change of use of lots

A lot owner or occupier of a lot must not:

- (a) use the lot for any purpose that may be illegal or injurious to the reputation of the Building or which may cause a nuisance or hazard to any other lot owner or occupier of a lot or their respective invitees;
- (b) use the lot or any part of it or part of the common property for any public announcement or for the display of any signage, placard or advertisement in relation to the sale or lease of a lot unless previously approved by the Owners Corporation and affixed to the Building in the area designated for such signage by the Owners Corporation from time to time;
- (c) allow or permit more than one sign approved under sub-rule 5.1(b) to be affixed to the lot at any given time and any such sign may be affixed for a period of no longer than 30 days unless otherwise agreed by the Owners Corporation;
- (d) a lot owner or occupier of a lot must not use that part of a lot designed for use as a car parking space for any other purpose without the prior written consent of the Owners Corporation;
- (e) allow the placement of goods outside storage cages and/or on car parking lots; or
- (f) allow their lot to be used for a purpose which may be illegal or injurious to the reputation of the Building including a massage parlour, brothel or similar purpose or in a manner which may constitute a nuisance or hazard to any other lot owner or occupier.

5.2 A lot owner of a lot which is the subject of a lease or licence agreement must take all reasonable steps, including any action available under the lease or licence agreement, to ensure that any lessee or licensee of the lot and any invitees of that lessee or licensee comply with these rules.

5.3 A lot owner or occupier of a lot must at the lot owner's or occupier's expense promptly comply with all laws relating to the lot including, without limitation, any requirement, notices and orders of any governmental authority.

5.4 External appearance of lots

A lot owner or occupier of a lot must not:

- (a) paint, finish or otherwise alter the external facade of any building or improvement forming part of the common property or their lot without the consent first obtained from the Owners Corporation;
- (b) construct or erect any shed, enclosure or structure of any nature or description on a balcony, terrace or garden area forming part of the lot without the prior written consent of the Owners Corporation. (The Owners Corporation shall not in any case consent to the erection of any structure if such structure detracts from the general appearance of the Building or if it interferes with the views or use and enjoyment of another lot);
- (c) install covering to any storage areas without the prior written consent of the Owners Corporation. Any covering must comply with fire regulations (i.e. being fire retardant) and of a colour approved by the Owners Corporation;
- (d) allow any balcony, terrace or garden area which forms part of any lot to become unkempt, overgrown or unsightly and that when watering or cleaning to ensure that minimal disturbance to other members and occupiers occurs;
- (e) install any curtains, blinds or other window furnishings, including those with block out, whether inside their lot or external to their lot, and visible from the street, unless they are black in colour, and in materials approved by the Owners Corporation;
- (f) install any curtains, blinds or other window furnishings, not visible from the street, unless they are black, charcoal or white in colour; and
- (g) install any flywire screen, awning, security door, or any other exterior fixture or fitting without first having obtained written permission to do so by the Owners Corporation and provided that said permission complies with the standards established by the Owners Corporation and governing authorities.

6 Design

6.1 Design, construction and landscaping

A lot owner or occupier of a lot must:

- (a) keep the lot clean and in good repair;
- (b) keep all internal gardens and balconies clean, tidy and well maintained;
- (c) ensure their car parking space(s) are free of oil etc. The Owners Corporation reserves its right to clean any area and charge the owner for the cost incurred;
- (d) not install a safe in a lot without the written consent of the Owners Corporation and before submitting to the Owners Corporation a structural engineering report in respect of the proposed installation;
- (e) not breach fire regulations by installing unapproved dead locks or peep holes that would void the Owners Corporation's insurance policy; and
- (f) not modify any air conditioning, heating or ventilation system or associated ducting servicing that lot without the prior written consent of the Owners Corporation.

7 Behaviour of persons

Model rules 5.1 and 5.2 in Schedule 2 of the OC Regulations do not apply.

7.1 Behaviour of owners, occupier and invitees on common property

- (a) A lot owner or occupier of a lot when on common property (if on any part of a lot so as to be visible from another lot or from common property) must be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the lot owner or occupier of another lot or to any person lawfully using common property.
- (b) A lot owner or occupier of a lot must not smoke in the stairwells, lifts, foyers and carpark forming part of the common property or such other parts of the common property as the Owners Corporation or the Manager may designate from time to time.
- (c) A lot owner or occupier of a lot must not use or permit to be used in or on the common property skateboards, roller skates or roller blades.
- (d) A lot owner or occupier of a lot must not nor permit consumption of alcohol or the taking of glassware onto the common property. i.e. gardens, pool, spa, tennis court, gymnasium, dining (if applicable) unless stipulated within the House Rules.
- (e) A lot owner or occupier of a lot must not interfere with the peaceful enjoyment of the lot owner or occupier of another lot when smoking on their balcony or permit disposal of cigarette butts or cigarette ash over balconies.
- (f) A lot owner or occupier of a lot must not without the prior written consent of the Owners Corporation do or permit anything to be done which may invalidate, suspend or increase the premium for any insurance policy effected by the Owners Corporation.
- (g) A lot owner or occupier of a lot must take all reasonable steps to ensure the invitees of the lot owner or occupier comply with these rules. If an invitee of a lot owner or occupier causes damage to the common property, the lot owner or occupier responsible for the invitee will be liable for to the Owners Corporation for any cost of making good the damage caused.
- (h) A lot owner or occupier of a lot must abide by 'House Rules' implemented by the Owners Corporation from time to time relating to the use of common area facilities i.e. gardens, pool, spa, tennis court, gymnasium, dining (if applicable)

7.2 Noise and other nuisance control

A lot owner or occupier of a lot must not:

- (a) create any noise or behave in a manner likely to interfere with the peaceful enjoyment of the lot owner or occupier of another lot or of any person lawfully using common property or which otherwise fails to comply with the Environmental Protection (Residential Noise) Regulations 2008 (and/or any subsequent amendments or successor to these Regulations);
- (b) obstruct the lawful use of common property by any person;
- (c) use washing machines, vaccum cleaners, tumble dryers and dishwashers between the hours of 10 p.m and 8 a.m; or
- (d) without limiting the generality of the foregoing, use hammer drills or jack hammers in a lot between the hours . specified by the Environmental Protection (Residential Noise) Regulations 2008 (and/or any subsequent amendments or successor to these Regulations).

7.3 Positive obligations of lot owners or occupiers

A lot owner or occupier shall do or cause to be done the following:

- (a) pay any increased insurance premium for any policy effected by the Owners Corporation occasioned by his/her particular use of the lot;

- (b) repair and maintain the lot in a state of good repair and working order and keep clear all sanitary and sewerage and other apparatus and equipment servicing the lot exclusively for the supply of electricity, water, hot water, gas heating and cooling installation, security systems or other services to the lot, all wires within the lot or on the common property used in connection with wireless or television reception which service exclusively the lot, all sewers, drains, tubes, pipes, ducts and wires which are wholly within and terminate in the service lot and any tank, cistern, wireless aerial or television antenna, lifts, heating and cooling installation, security system and any other equipment or apparatus now on or which may hereafter be installed on the common property and any sewers, drains, tubes, pipes, ducts or wires used in connection therewith on the common property which serve exclusively the lot and pay for the renewal repair or reinstatement thereof;
- (c) report to the Owners Corporation or building caretaker or manage any accidents to or failure of any services which affects the use and enjoyment of such services by owners and occupiers of lots in the Building or of the common property;
- (d) when leasing his/her lot (where such leasing is permitted) make it a condition of the lease or tenancy that the lessee or tenant shall comply with these rules and the Owners Corporation Regulations 2007 or such other replacement Regulations that are in force from time to time;
- (e) only use the common facilities in such hours as the Owners Corporation may set for their use from time to time; and
- (f) each member shall ensure that, in the event of the replacement or repair of any glass which forms part of the exterior of the Building (whether inside the boundary of a lot or otherwise), the replacement glass or repair shall comply with the specification of the glass which is replaced or repaired.

8 Use of Lifts

A lot owner or occupier of a lot must not:

- (a) use any lift for any other purpose other than to gain access to his or her lot as directed by the Owners Corporation and not unless the use is in accordance with any operating instructions of the lift supplier or rules made by the Owners Corporation with respect to use of lifts; and
- (b) without the consent of the Owners Corporation use the lifts for delivery or removal of goods except between 9 a.m and 5 p.m on business days and 9 a.m and 12 p.m on Saturday's, or at any time without using lift covers.

9 Relocations, deliveries & tradesman (other than the Vendor)

A lot owner or occupier must not:

- (a) give less than seventy-two (72) hours' notice to the Owners Corporation or its representative before any furniture, fittings or equipment may be moved in or out of any lot via the lift. Also the moving of same must be done in a manner and at the time directed by the representative of the Owners Corporation provided that nothing herein shall restrict the movement of such items if they can be safely and adequately moved by one person and are of a nature such that damage will not be occasioned to any items of common property or of property belonging to the owner or occupier of any other lot;
- (b) damage, obstruct or interfere with the lift stairways, corridors or any other common property when moving any items in or out of any lot; or

- (c) arrange for trades persons (except in emergencies) or any nature or kind to perform works to be carried out except during normal working hours, 8.00a.m to 6.00p.m on week days and there shall be no works done by trades people on weekends or public holidays without supervision by the owner or occupier of the lot and is done so at the sole responsibility of the owner or occupier so arranging; and

10 Levies

Subject to re-affirmation at each Annual General Meeting, all lot owners are to pay the Owners Corporation fees or levies on the due date as specified by the Owners Corporation Manager. Any unpaid fees or levies will attract an interest charge set by the *Penalty Interest Rates Act 1963* (Vic).

11 Dispute Resolution

- (a) The grievance procedure set out in this rule applies to disputes involving a lot owner, a Manager, an occupier of a lot or the Owners Corporation.
- (b) The party making the complaint must prepare a written statement in the approved form.
- (c) If there is a grievance committee of the Owners Corporation, it must be notified of the dispute by the complainant.
- (d) If there is no grievance committee, the Owners Corporation must be notified of any dispute by the complainant, regardless of whether the Owners Corporation is an immediate party to the dispute.
- (e) The parties to the dispute must meet and discuss the matter in dispute, along with either the grievance committee or the Owners Corporation, within 14 working days after the dispute comes to the attention of all the parties.
- (f) A party to the dispute may appoint a person to act or appear on his or her behalf at the meeting.
- (g) If the dispute is not resolved, the grievance committee or Owners Corporation must notify each party of his or her right to take further action under Part 10 of the OC Act.
- (h) This process is separate from and does not limit any further action under Part 10 of the OC Act.

12 Special Rules applicable to Vendor

12.1 Completion of Development

- (a) Notwithstanding anything to the contrary contained in these rules, so long as St James Hawthorn Pty Ltd ACN 620 522 626 ("**Vendor**") is a proprietor or occupier and is an owner of a lot and so long as any mortgagee or chargee of the Vendor has an interest in any lot then all the preceding rules shall not in any way whatsoever apply to or be enforceable against the Vendor or its mortgagee or chargee where to do so would prevent, hinder, obstruct or in any way interfere with any works of any nature or description that the Vendor, its mortgagee or chargee may be engaged in or which it may need to carry out in order to complete construction of the building and facilities comprising all lots and common property in the Plan of Subdivision ("the Development").

- (b) The Vendor, its mortgagees or chargees shall be and are by this rule, authorised by each and every proprietor or occupier of a lot within the Plan of Subdivision to:
 - (i) erect such barriers, fences, hoardings, signs as it deems necessary to facilitate any works to be carried out in relation to the Development;
 - (ii) take exclusive and sole possession of any parts of the common property as it may need to have exclusive possession or in order to carry out any works or activities in relation to the Development;
 - (iii) exclude all and any proprietors or occupiers from any parts of the common property as may be necessary in order to carry out any works in relation to the Development;
 - (iv) erect for sale promotional advertising or other signs as the Vendor may require on any part of the common property;
 - (v) grant rights to use or access through or over the common property to third parties on such terms and conditions as the Vendor or its mortgagee or chargee thinks fit; and
 - (vi) use whatever rights of way and/or points of egress and ingress to the Development as necessary to carry out any works and to block for whatever periods are necessary any rights of way or points of egress and ingress to the Development in order to carry out any works.

12.2 The Owners Corporation shall, within 7 days of being requested by the Vendor or its mortgagee or chargee, sign whatever consents authorities permits licences leases or other such documents in favor of the Vendor as the Vendor may direct on terms set out by the Vendor and as may be required by the Vendor.

12.3 Rooftop and Signage Leases

- (a) The Owners Corporation will:
 - (i) within 7 days of a request from the Vendor, grant a rooftop lease:
 - (A) to the Vendor or such other entity as may be nominated by the Vendor;
 - (B) in respect of all or any part of the common property comprising a rooftop of the Building for a term of 99 years at an annual rental of \$1 per annum payable on demand; and
 - (C) which shall allow the tenant to use the rooftop for any legal purpose and shall otherwise be on such terms and conditions as are acceptable to the Vendor (or its nominee) in its absolute discretion;
 - (ii) do all things and sign all documents necessary to enable the Owners Corporation to execute the lease, and will not object in any way to the lease.
- (b) The Owners Corporation will:
 - (i) within 7 days of a request from the Vendor, grant a signage lease:
 - (A) to the Vendor or such other entity as may be nominated by the Vendor;
 - (B) in respect of all or any part of the common property within the Plan of Subdivision requested by the Vendor or its nominee, for a term of 99 years at an annual rental of \$1 per annum payable on demand; and

- (C) which shall otherwise be on such terms and conditions as are acceptable to the Vendor (or its nominee) in its absolute discretion;
- (ii) do all things and sign all documents necessary to enable the Owners Corporation to execute the lease, and will not object in any way to the lease.
- (c) In respect of the premises to be leased to the Vendor (or its nominee) pursuant to sub-rules 12.3(a) and (b) ("Leases") the Owners Corporation will do all things and sign all necessary documents so as to allow the Vendor (or its nominee, employees, contractors or any other person authorised by the Vendor or its nominee):
 - (i) quiet enjoyment of the premises; and
 - (ii) access to the common property in the Plan of Subdivision necessary to enable the Vendor or its nominee to connect services to the premises including but not limited to water and electricity.

13 Caretaking and Letting Agent

13.1 Power to Appoint

In accordance with the OC Act, the Owners Corporation has the power to:

- (a) appoint and enter into an agreement with a caretaker to provide caretaking, security, cleaning and operational services for the Building ("**Caretaker**"); and
- (b) appoint a letting agent to provide letting, property management and sales services to lot owners and occupiers of the Building ("**Letting Agent**").

13.2 Caretaker's Duties

The Caretaker's duties may include:

- (a) supervising the cleaning, repair, maintenance, renewal or replacement of common property and any personal property vested in the Owners Corporation;
- (b) supervising Owners Corporation employees and contractors;
- (c) providing security services to the Owners Corporation;
- (d) providing cleaning and gardening services to the Owners Corporation; and
- (e) anything else that the Owners Corporation agrees is necessary for the operation and management of the Building.

13.3 Role of Letting Agent

The role and duties of the Letting Agent may include the provision of a letting, property management and sales service to owners and occupiers of lots in the Building.

13.4 Fees

The Owners Corporation will pay fees for the performance of the caretaking duties in rule 13.2, however no payment shall be made by the Owners Corporation for the provision of letting, property management and sales services provided by a Letting Agent under rule 13.3.

13.5 No interference with Caretaker or Letting Agent

An owner or occupier of a lot must not:

- (a) interfere with or obstruct a Caretaker or Letting Agent from performing its respective roles and duties under the agreements referred to in rule 13.1;
- (b) interfere with or obstruct the Caretaker from using any part of the common property designated by the Owners Corporation for use by the Caretaker; or
- (c) interfere with or obstruct a Letting Agent from using any part of the common property designated by the Owners Corporation for use by the Letting Agent.

13.6 Restriction on competition with Caretaker or Letting Agent

The owners and occupiers of every lot except any lot owned or licensed by the Caretaker or the Letting Agent must not on any lot or the common property, except with the written consent of the Caretaker and the Letting Agent, conduct or participate in the conduct of:

- (a) the business of a Letting Agent; or
- (b) the business of a pooled rent agency; or
- (c) the business of on site caretaker; or
- (d) any other business activity that is identical or substantially identical with any of the services provided to owners and occupiers of lots referred to in rules 13.2 and 13.3 and/or any agreement entered into pursuant to rule 13.1.

13.7 No restriction on short stay accommodation

Nothing contained in these rules restricts a lot owner from:

- (a) entering into an agreement with the Letting Agent; or
- (b) otherwise using or permitting their lot to be used as a serviced apartment, hotel or other forms of short stay accommodation.

14 Compliance with Rules by others

14.1 Invitees

A member, lot owner or occupier must take reasonable steps to make sure that their invitees obey these Rules. If their invitees do not obey these Rules, the member, lot owner or occupier must immediately make sure that the invitees leave their Lot and/or the Common Property.

14.2 Tenants and licensees

A member or lot owner of a lot subject to a lease or licence must take all reasonable steps (including any action available under the lease or licence) to make sure any tenant or licensee of the Lot and their invitees comply with these Rules.

14.3 Rules to be provided

A member, lot owner or occupier must provide a copy of these Rules to any tenant or licensee and make any permitted lease or licence conditional on the tenant or licensee complying with these Rules and the Model Rules of an Owners Corporation.

15 Owners Corporation may recover costs

15.1 Owners Corporation may fix a member's breach

If a member, lot owner or occupier breaches these Rules the Owners Corporation may, at the member's, lot owner's or occupier's cost, do anything the member, lot owner or occupier should have done under these Rules but which has not been done or which the Owners Corporation reasonably considers has not been done properly.

15.2 Owners Corporation may recover costs on demand

The member, lot owner or occupier must pay on demand by the Owners Corporation:

- (a) all costs incurred by the Owners Corporation because of any breach of these Rules by the member, lot owner or occupier, including legal costs (on a solicitor-own client basis) and recovery of any Owners Corporation fee;
- (b) compensation in respect of any damage to the Common Property or personal property vested in the Owners Corporation caused by the member, lot owner, occupier, licensee or invitee; and
- (c) any increased premium occasioned by the member, lot owner or occupier use of the Lot.

15.3 Owners Corporation Administration

- (a) A member, lot owner or occupier must pay on demand interest to the Owners Corporation on any amount payable by the member, lot owner or occupier under these Rules or the OC Regulations, which remains unpaid for 28 days from the due date for payment, calculated on daily balances from the due date for payment until the amount is paid. The rate to be applied to each daily balance is the rate set down from time to time in the Penalty Interest Rate Act 1980 (Vic). Interest charged on outstanding levies or fees shall be calculated on the total rate of the levy or fee and calculated on the number of days of default.
- (b) Meeting of the Owners Corporation will be held in accordance with the OC Regulations.

16 Consent of the Owners Corporation

A consent given by the Owners Corporation under these Rules will, if practicable, be revocable and may be given subject to conditions including, without limitation, a condition evidenced by a minute of a resolution that the member, lot owner or occupier of the Lot to which the consent or approval relates is responsible for compliance with the terms of the consent.

17 Complaints and applications

Any complaint or application to the Owners Corporation under these Rules must be addressed in writing to the Manager, or where there is no Manager, the secretary of the Owners Corporation.

18 Owners Corporation Additional Rules

The Owners Corporation may from time to time make House Rules and each member, lot owner or occupier must comply with those House Rules. These House Rules are to be read in conjunction with the Model Rules for an Owners Corporation.

19 Commercial Area

- 19.1 Without limiting any other rule, the member or occupier of any lot that is used as a restaurant, cafe or for other commercial purposes ("**commercial lot**") must:
- (a) take out their own bins on each garbage collection day to the bin collection area nominated by the Owners Corporation, and bring the bins in before 9:00am on each collection day Monday to Saturday and before 10:00am on Sundays;
 - (b) avoid unnecessary noise when filling bins and ensure contractors pick up after 8:00am on Monday to Saturday and after 9:00am on Sundays;
 - (c) ensure lids on bins are securely closed at all times and ensure that bins are kept clean;
 - (d) ensure all cardboard and paper waste is cut up or folded and neatly placed in recycling area;
 - (e) store all bins, bottles, cardboard/paper and any other refuse within the relevant lot (but not any car park forming part of that lot) and must not store bins, bottles, cardboard/paper or any other refuse on common property except when this is the bin collection and recycling areas nominated by the Owners Corporation;
 - (f) ensure that any perishable rubbish is refrigerated and hidden from view;
 - (g) wash bins only within the lot, excluding car spaces;
 - (h) comply with all health, noise and other regulations in carrying on the business from the lot;
 - (i) ensure that any mechanical fluing is charcoal filtered or equivalent and subject to a regular maintenance & servicing contract;
 - (j) restrict deliveries to occur only between 7.00am and 6:00pm daily;
 - (k) make all reasonable attempts to address / treat any odours that emanate from the lot;
 - (l) ensure that fat and/or cooking oil is placed in sealed containers and removed from the premises by a contractor registered for this purpose;
 - (m) ensure that any grease trap is fully maintained according to manufacturer's specifications and is regularly cleaned and emptied by a contractor registered for this purpose;
 - (n) ensure that all wall and floor linings and treatments are acoustically treated;
 - (o) ensure that the operation of the tenancy does not impact on the amenity of the residents above the tenancy;
 - (p) ensure that suspended ceilings are installed in the tenancy from one of the following ceiling material options:
 - (i) plasterboard; and/or
 - (ii) mineral fibre tiles.

- (q) ensure that any alternative ceiling proposals are supported by a report from a suitably qualified acoustic consultant;
 - (r) not operate, (nor allow access to the lot for cleaning) outside the hours of 7:00am to 12.00am Monday to Thursday; 7:00am to 1:00am Friday and Saturday; 9:00am to 12:00am Sunday; and
 - (s) comply with these rules.
- 19.2 Nothing herein shall prevent or prohibit the owner or occupier of any commercial lot from carrying on its reasonable business operations and to apply for, and obtain, any Planning Permit, Liquor Licence, or any other Legislative consent or permit which the owner or occupier of any commercial lot may apply for, provided that all times the owner or occupier of any such commercial lot:
- (a) operates lawfully;
 - (b) obtains each and every permit, Liquor Licence or other consent required; and
 - (c) operates within the terms of any such Liquor Licence, permit or consent.
- 19.3 The member or occupier of any commercial lot will be responsible for:
- (a) all costs associated with the cleaning, repair and maintenance of any areas licensed to them (if applicable); and
 - (b) ensuring that these licensed areas are kept in a pristine condition at all times.
- 19.4 The member or occupier of any commercial lot will be liable for any damage caused to common areas through reckless behaviour and actions that are a result of not complying with any of these rules by the member's or occupier's staff or agents.
- 19.5 Upon the Owners Corporation giving written notice of repairs to common property that are to be performed by the member or occupier, the member or occupier will have 7 days to undertake necessary repairs.
- 19.6 If the member or occupier fails to coordinate the repairs within the period specified in a notice given under rule 19.5:
- (a) the Owners Corporation may take such action (including engaging contractors) as may be required to undertake the necessary repairs; and
 - (b) the member or occupier will be liable to pay the costs incurred by the Owners Corporation in taking such action upon presentation of an invoice.
- 19.7 No item is to be stored or left in the common property. Items left in common property without first obtaining the Owners Corporation's consent will be disposed of without notice to the member or occupier.