



DE WIJNLANDEN

DE WIJNLANDEN HOME OWNERS ASSOCIATION ESTATE DATA PROTECTION POLICY - SEPTEMBER 2017

(Approved on 22 June 2017)

DE WIJNLANDEN RESIDENTIAL ESTATE DATA PROTECTION POLICY

DATA PROTECTION POLICY	
Version Number	Issue 1.0
Date Revision Complete	1 July 2017
Policy Owner	Estate Manager
Author	Ryan Skipp, Chairperson 2015, 2016, 2017
Reason for Policy	To produce a stand-alone policy on Data Protection and to align the policy with various other requirements highlighted by regulatory requirements or where there is a lack of existing guidance. Eg. CCTV
Data Protection	The policy is about how we implement Data Protection within De Wijnlanden Residential Estate.
Proof Read	Hardus Greyling
Date Approved	
Approved by	DW HOA Trustee Committee.
Next Review Due	5 Years or as necessary if legislation changes.
Audience – Training and Awareness Method	HOA and anyone with Data Protection responsibilities.
Effective Date	On approval.
Internal References	Openness and Confidentiality Policy.

CONTENTS

1. POLICY STATEMENT	3
2. PRINCIPLES AND SCOPE OF POLICY	4
3. KEY OPERATIONAL FRAMEWORK.....	5
4. RESPONSIBILITIES FOR COMPLIANCE	6
5. SECURITY OF DATA (RETENTION AND DISPOSAL)	7
6. CLOSED CIRCUIT TELEVISION (CCTV)	8
7. MONITORING AND REVIEW	10
8. APPENDIX 1.....	11
DATA PROTECTION DEFINITIONS USED IN THIS POLICY	11
PERSONAL DATA	11
SENSITIVE PERSONAL DATA	11
PROCESSING.....	12
9. APPENDIX 2.....	13
DE WIJNLANDEN RESIDENTIAL ESTATE'S DATA PROTECTION STATEMENT.	13
10. APPENDIX 3.....	14
SUBJECT ACCESS REQUEST FOR PERSONAL DATA	14
11. APPENDIX 4.....	15
RETENTION OF DE WIJNLANDEN RESIDENTIAL ESTATE RECORDS	15

1. POLICY STATEMENT

- 1.1 De Wijnlanden Residential Estate recognises that Personal Data Protection as per section 14 of the Constitution of the Republic of South African Act 1996 is an important piece of legislation to protect the rights of individuals in respect to any personal information that is kept about them, whether on computer or in manual filing systems. The additional acts including Protection of Personal Information (POPI) and Promotion of Access to Information Act (PROATIA) are also considered.
- 1.2 De Wijnlanden Residential Estate also acknowledge that from a regulatory perspective and for the confidence of De Wijnlanden Residential Estate HOA Members and Residents, a Data Protection Policy will ensure that personal information given to De Wijnlanden Residential Estate will be treated appropriately.
- 1.3 The policy acknowledges the right of access for individuals to information held about them and the right to stop or prevent processing likely to cause damage or distress and the right to compensation for unlawful processing. These rights apply to all data including CCTV images.
- 1.4 De Wijnlanden Residential Estate HOME OWNERS' ASSOCIATION is Established in terms of Section 29 of the Land Use Planning Ordinance, No 15 of 1985 and registered with the City Council of Cape Town Planning & Building Development Management, with registration number is 18/6/1/1/63/6852
- 1.5 The aim of this policy is to ensure De Wijnlanden Residential Estate complies with this legislation and understands fully its obligations under the POPI Act.
- 1.6 This policy also aims to raise the awareness of the need to manage data in accordance with the Data Protection Principles listed below.
- 1.7 The Data Protection Policy is designed to consider the Promotion of Access to Information Act.
- 1.8 De Wijnlanden Residential Estate's Lead Officer and named contact for Data Protection is the Estate Manager.
- 1.9 There are also separate statements regarding the obligation and duties of the appointed roles, as defined in the De Wijnlanden Estate Constitution of the HOA.
- 1.10 There are eight Principles of Data Protection contained in the Act which can be referred to by anyone who has a role to play in the management of personal information in De Wijnlanden Residential Estate. These POPI principles are summarised below;
 - a) The processing of information is limited which means that personal information must be obtained in a lawfully and fair manner.

- b) **The information can only be used for the specified purpose** it was originally obtained for.
- c) The Act **limits the further processing** of personal information. If the processing takes place for purposes beyond the original scope that was agreed to by the data subject, the processing is prohibited.
- d) The person who processes the information must **ensure the quality of the information** by taking reasonable steps to ensure that the information is complete, not misleading, up to date and accurate.
- e) The person processing the personal information should have a degree of openness. The data subject and the Information Regulator must be notified that data is being processed.
- f) The person processing data must ensure that the proper security safeguards and measures to safeguard against loss, damage, destruction and unauthorised or unlawful access or processing of the information, has been put in place.
- g) The data subject must be able to **participate**. The data subject must be able to access the personal information that a responsible party has on them and must be able to correct the information.
- h) The person processing the data is accountable to ensure that the measures that give effect to these principles are complied with when processing personal information.

2. PRINCIPLES AND SCOPE OF POLICY

- 2.1 This policy applies to all employees, Management, HOA Trustee Committee Members, agency workers and contractors assigned to De Wijnlanden Residential Estate.
- 2.2 Employees, agency workers and contractors must be informed about data protection issues, and their rights to access their own personal data through the Induction process. HOA Trustee Committee Members will receive guidance on Data Protection during their induction and any contractors and agency workers should be briefed on the importance of data protection at the start of their assignment, for example as it relates to safeguarding sensitive personal information on a HOA Member, resident, contractor or guest.
- 2.3 Compliance with this policy is a condition of appointment with De Wijnlanden Residential Estate and any deliberate breach of the policy may result in disciplinary action, which for serious or deliberate breaches may include dismissal. Knowingly breaching the provisions of POPI may also lead to legal action being taken against the organisation and individuals.
- 2.4 All data/information processed by De Wijnlanden Residential Estate is covered by this policy.
- 2.5 A list of data protection definitions referred to in the Act and the Policy document is attached as Appendix 1.

3. KEY OPERATIONAL FRAMEWORK

- 3.1 Processing of personal data will only be carried out where the data subject has given consent. This includes implied consent, for example where the data is necessary for the performance of:
- 3.1.1 a contract to which the data subjects are a party; or
 - 3.1.2 for taking steps at the request of the data subject with a view to entering into a contract of employment or other legal obligation such as operating estate services or personal support services; or
 - 3.1.3 the processing is necessary for performing any obligation imposed by law on De Wijnlanden Residential Estate in connection with offers of tenancy, service or employment; or
 - 3.1.4 the processing is necessary in order to protect the operation of services and vital interests of the data subject or another person in a case where (1) consent cannot be given by the individual; (2) De Wijnlanden Residential Estate cannot be reasonably expected to obtain the consent or (3) in order to protect the vital interests of another person in a case where the consent by or on behalf of the data subject has been unreasonably withheld.
Details of the reasons why the data is sought and the reasons for which it will be used will be stated on all relevant De Wijnlanden Residential Estate forms as outlined in Appendix 2(a).
- 3.2 The processing of sensitive personal data will only be carried out with the individual's explicit consent as outlined in Appendix 2(b). Sensitive personal data is defined at Appendix 1.
- 3.3 Data Received From Third Parties – Data which has been provided to De Wijnlanden Residential Estate, in confidence, by a third party such as employment references or tenancy reports cannot normally be disclosed to the data subject, unless the author of the data (third party) can remain anonymous, agrees to its release at a later date or it is reasonable to comply with the access request without the originator's consent.
- 3.4 Where personal information is held by De Wijnlanden Residential Estate on residents, owners, tenants, applicants, employees and other individuals, these people have the right to access the information, unless it is exempt under the POPI.
- 3.5 Where a request for information is received (this must be in writing, including email correspondence), De Wijnlanden Residential Estate will respond to the request within 40 days.
- 3.6 No charge will normally be made for requests for information. However De Wijnlanden Residential Estate reserves the right to make a charge towards administration, stationery and postage costs where it is felt necessary to do so.
- 3.7 De Wijnlanden Residential Estate is registered with the City Council of Cape Town. The Estate Manager shall ensure subsequent requirements for

contractor, agent, owner and resident registration are complied with and will liaise with the HOA Trustee Committee on the content of the registration.

- 3.8 De Wijnlanden Residential Estates' Data Protection Policy can be found on the Glovent Portal <http://www.glovent.co.za/memberlogin> to which all home owners are issued a login when they register with the Estate Manager .
- 3.9 De Wijnlanden Residential Estate enables audits for the HOA Trustee Committee to undertake periodic reviews of the information being processed within their portfolios.
- 3.10 Guidance and raising awareness on Data Protection issues, including the use of the Audit Procedures, can be obtained from the Estate Manager. This can include;
 - a) For New Residents, Agents, Contractors and employees – Sensitisation will be provided at the induction arranged by the Estate Manager as appropriate.
 - b) Existing Employees – Awareness sessions can be arranged for all employees by contacting the Estate Manager. It is recommended that Data Protection is a subject that is discussed periodically at Trustee Meetings.
 - c) HOA Trustee Committee Members – members of the Committee can be provided with this policy and associated procedures on request. New members of the Committee are provided with awareness training as part of their induction process which should include guidance on Data Protection and Openness and Confidentiality.

4. RESPONSIBILITIES FOR COMPLIANCE

- 4.1 The Estate Manager is responsible for the following:
 - a) Notification and registering with the City Council
 - b) Co-ordinating any amendments to De Wijnlanden Residential Estate's registration
 - c) Monitoring and reporting to the HOA Trustee Committee on compliance and any subject access rights or requests
 - d) Advising Portfolio Owners on audit procedures
 - e) Advising Portfolio Owners on Data Protection
 - f) Liaising with the Trustees on De Wijnlanden Residential Estate's Data Protection Policy and any queries arising
 - g) Liaising with the ICT Portfolio users on matters relating to IT Security
 - h) Liaison with the City Council and designated officers as required, for example where there is a breach of data protection principles
- 4.2 The Estate Manager is responsible for ensuring that storage of digital data, systems back up, storage and disposal of digital media and ICT systems are secure and that all associated ICT Policies and Procedures underpin and align with this Policy.
- 4.3 The Estate Manager is responsible for authorising actual data collection activities.

- 4.4 The Estate Manager will assist in implementing the requirements of the POPI by:
- a) Providing advice and support to all portfolios on matters relating to compliance with POPI
 - b) Disseminating information relating to the POPI to those with Data Protection responsibilities
 - c) Responding and co-ordinating requests from individuals to access personal information we hold about them, whether they be employees (past/present) or tenants, residents, service users or applicants
- 4.5 Each Portfolio Owner has specific responsibilities for safeguarding the personal and sensitive information held on data subjects within their portfolio and complying with the provisions of this policy and POPI.
- 4.6 It is the individual responsibility of each employee and HOA Trustee Committee Member to ensure they comply with De Wijnlanden Residential Estate's Data Protection policy and these associated procedures.
- 4.7 It is the individual responsibility of each employee and HOA Trustee Committee Member to ensure they comply with De Wijnlanden Residential Estate's Data Protection policy and these associated procedures.

5. SECURITY OF DATA (RETENTION AND DISPOSAL)

- 5.1 All employees are responsible for ensuring that any personal data which they hold is kept securely and that they are not disclosed to any unauthorised third party.
- 5.2 All personal data must be accessible only to those who need to use it. A judgement should be based upon the sensitivity and value of the information in question; but always consider keeping personal data:
- a. in a lockable room with controlled access
 - b. in a locked drawer or filing cabinet
 - c. if data is computerised then it should be stored on Network servers and not on local systems and have suitable security access levels applied.
 - d. particular care should be taken of portable ICT equipment, memory sticks etc which should be password protected to prevent unauthorised access. Where data is by necessity stored on memory sticks these must be protected by Advanced Encryption Standard encryption and passwords strictly controlled by the Estate Manager.
 - e. sensitive personal data should not be kept on memory sticks or routinely taken from De Wijnlanden Residential Estate premises on any form of removable media
 - f. Data held on removable media such as CD/DVD media must be disposed of in accordance with acceptable data disposal methods.
- 5.3 Care must be taken to ensure that PC monitors and Mobile Device Screens are not visible except to authorised staff and that computer passwords are kept confidential. PC's, Mobile Phones, NetBooks and Laptops should not be left unattended without password protected screen savers and manual

records should not be left where they can be accessed by unauthorised personnel. Employees are encouraged to operate a “clear desk” policy when finishing work each day.

5.4 Care must be taken to ensure that appropriate security measures are in place for the deletion or disposal of personal data. Manual records should be shredded or disposed of as “confidential waste”.

5.5 This policy also applies to employees who process personal data outside De Wijnlanden Residential Estate premises, such as when working from home. Off-site processing presents a potentially greater risk of loss, theft, damage to personal data. Staff should take particular care when processing personal data at home or in other locations. Any loss of data from either De Wijnlanden Residential Estate premises or off site must be reported to the Estate Manager immediately.

5.6 Retention & Disposal

5.6.1 De Wijnlanden Residential Estate discourages the retention of personal data for any longer than necessary. The fifth principle of Data Protection states: “(data) shall not be kept for longer than is necessary for that purpose or those purposes”. Considerable amounts of data are collected and some data will be kept for longer periods than others, however every effort should be made to review the need to keep it and safely dispose of data as soon as possible. See Appendix 4 – Retention of Records.

5.6.2 Portfolios and in particular System owners will regularly review what data they will dispose of in accordance with data auditing procedures. De Wijnlanden Residential Estate will comply with external guide lines on the retention of records where appropriate.

5.6.3 Personal data will be disposed in a way that protects the rights and privacy of data subjects (e.g. shredding, disposal as confidential waste, deletion from ICT systems and backups).

6. CLOSED CIRCUIT TELEVISION (CCTV)

6.1 De Wijnlanden Residential Estate has a requirement for maintaining security through the use of closed circuit television systems.

6.2 Where CCTV is in use, images are treated as “data” in the same manner as paper or computer based information. The main purpose of collecting data from CCTV cameras is the protection of De Wijnlanden Residential Estate tenants, residents, service users, employees and the public, the prevention of crime or anti-social behaviour and to safeguard De Wijnlanden Residential Estate property. Data from CCTV cameras may be used as evidence during criminal or other legal proceedings and may be passed to other agencies within the scope of our Security Portfolio function.

6.3 The number and type of cameras is also carefully considered. Tenants, visitors and employees should not feel uncomfortable by the presence of CCTV and it is not used to monitor private areas such as inside a home or garden. It should also be noted that cameras may not always be immediately visible to the casual observer.

6.4 Tenant consultation on any new camera installations includes discussing if there are alternative options, any underlying reasons why the need for CCTV has arisen, the number and positioning of cameras, secure image recording and storage facilities, who has access to recorded images and whether the system is temporary, permanent or subject to a period of review.

6.5 **Monitoring and Recording**

6.5.1 Systems in use at De Wijnlanden Residential Estate are monitored on a constant basis. Employees check the systems constantly, for example to see who along our boundaries. Employees should not use the system for monitoring movements of people in and around the estate. They are not expected to respond to requests from other residents who, for example, may want to find out what time someone went out or came back into the estate.

6.5.2 The CCTV monitors are not be in a position where images can be seen by members of the public. The CCTV monitors should be shielded if there is a risk that unauthorised people would be able to view images on screen.

6.5.3 Images will be recorded on a time loop. This means that recorded images are not kept indefinitely and will be recorded over on a regular basis. Usually this period is around one month. The length of time images are stored before being overwritten is known to employees responsible for monitoring the system in order to respond to enquiries from authorised parties.

6.5.4 Recorded images are kept securely and employees may not access these without the permission of the Estate Manager and only for specific purposes related to the use of CCTV, i.e. crime prevention/detection or dealing with anti-social behaviour.

6.5.5 CCTV images are the property of De Wijnlanden Residential Estate as the Data Controller.

6.6 **Notification**

6.6.1 It is the responsibility of De Wijnlanden Residential Estate, through the Estate Manager (Reactive), to ensure that proper warning signs are sited in all areas covered by CCTV.

7. MONITORING AND REVIEW

- 7.1 On a pre-determined basis, each Portfolio Owner must be provided with a copy of De Wijnlanden Residential Estate's Data Protection Policy requesting that this be reviewed with any proposed amendments incorporated. This process must be prompted by the Estate Manager. Any changes to De Wijnlanden Residential Estate's policy will require the permission of the HOA Trustee Committee.
- 7.2 Any breaches of this policy or associated procedures will be reported to the HOA Trustee Committee in summary format together with details of the number of subject access requests and whether or not these access requests have been arranged within the time period set out by POPI.
- 7.3 This policy will be reviewed every 5 years from the date of implementation which will be the date the policy is approved by the Trustee Committee, or earlier if deemed appropriate by changes to legislation.

APPENDIX 1

DATA PROTECTION DEFINITIONS USED IN THIS POLICY

Data Controller – a person or organisation who decides how personal data is to be processed and for what purpose. De Wijnlanden Residential Estate is the data controller, not individual staff members.

Data Subject – data subject means an individual (not an organisation), who is the subject of personal data such as a tenant or employee.

Data (including manual data/relevant filing system) – information which:

- a) is being processed by means of equipment operating automatically in response to instruction given for that purpose, such as information in UH,
- b) is recorded with the intention that it should be processed by means of such equipment;
- c) is recorded as part (or with the intention that it should form part) of a relevant filing system (i.e. any set of information relating to individuals to the extent that, although not processed as in (a) above, the set is structured, whether by reference to individuals or by reference to criteria relating to individuals, in such a way that specific information relating to an individual is readily accessible); and
- d) does not fall within paragraph a), b), or c) but forms part of an accessible record as defined in Section 68 of the DPA.

Examples of manual data that may qualify as structured manual files:

- Personnel Files – applications forms, appraisal forms, disciplinary records, sickness records, supervision notes etc.;
- Housing Records – application forms, waiting lists, rent accounts etc; and
- Card indices – lists of names and addresses, contact numbers etc.

PERSONAL DATA

– all data relating to a living individual who can be identified from that data. This includes any expressions of opinion about that individual as well as any intentions that any person has regarding that individual.

SENSITIVE PERSONAL DATA

– includes the following:

- Racial or ethnic origin;
- Political opinions;
- Religious or similar beliefs;
- Financial Information;
- Mental or physical health;
- Family details;
- Criminal records or allegations of criminal conduct.

PROCESSING

– the management of data or information includes obtaining, recording, holding, organising, adapting consulting, retrieving or otherwise performing some operation on it. Processing also includes disclosure of data and destroying data or information. Almost all uses of data or information are included in the definition of processing.

APPENDIX 2

DE WIJNLANDEN RESIDENTIAL ESTATE'S DATA PROTECTION STATEMENT

The statement below may be added to De Wijnlanden Residential Estate forms or documents as necessary to comply with POPI.

“De Wijnlanden Residential Estate is registered under POPI (1996) with the City Council of Cape Town. De Wijnlanden Residential Estate is the Data Controller for the purposes of the Data Protection Act.

The information you provide will be treated in confidence and in compliance with the Act.

We may pass the information to other agencies or organisations as allowed by the law.

As the Data Subject you have the right to access the information we hold on you. If you wish to exercise this right please contact our office in writing or via email with the details of your request.”

APPENDIX 3

SUBJECT ACCESS REQUEST FOR PERSONAL DATA

Has the data subject made a request in writing and paid the required fee (if required)?

YES

NO

No obligation to disclose

Has the person requesting the data satisfied you that she/he is the data subject?

NO

No obligation to disclose until their identity is confirmed.

YES

Will disclosure of personal data require you to disclose personal data of a third party in order to comply with request?

YES

Normally no obligation to disclose that part of the personal data relating to the third party unless third party consents or it is reasonable to dispense with consent.

NO

De Wijnlanden Residential Estate must provide requested information promptly and in any event within 40 days.

APPENDIX 4

RETENTION OF DE WIJNLANDEN RESIDENTIAL ESTATE RECORDS

De Wijnlanden Residential Estate processes personal data on a number of different subjects; these include tenants, residents, home owners, service users, housing applicants, employees, applicants for employment and members of the Trustee Committee of De Wijnlanden Residential Estate HOA.

We will ensure that all data is processed in accordance with the principles of Data Protection and will be retained securely for as long as it is required. Sensitive Personal Data, for example resident's family records or a tenant's financial circumstances, will be kept in recognised secure filing systems with controlled access. All sensitive data processed by De Wijnlanden Residential Estate, under the definition in Appendix 1 of this Policy is listed below with retention period and storage criteria. Other information, for example minutes of Committee meetings, which falls under Company Law is omitted from this Appendix.

We will comply with legislation and good practice advice wherever possible to ensure that data is kept only for as long as it is legally required and is securely destroyed thereafter.

Table 1 (4) Data Type	Portfolio	Retention Period (Yrs) & Reference	Storage
Thermal Camera recordings perimeter	Security	One(1) month	Locked cabinet
Gatehouse Access Control video recordings	Security	One(1) month	Locked cabinet
Biometrics Access Control data	Security	1 Year	Locked cabinet
Taipan Security Panic system data	Security	1 Year	Locked cabinet
Access Control Vehicle Registers for contractors & visitors	Security	3 Years	Locked Store room in secure building
ClickOn access Control data residents & visitors & remote usage	Security	1 Year	Locked cabinet Off site with Service Provider cloud based
Biometrics Enrolment data residents & domestics & gardeners	Security	1 Year	Locked cabinet in locked office in secure building
Former & Current Residents Files & Glovent Portal data	Managing Agent & Estate Manager	3 years	File Room, Locked Cabinets, off site PGPMS building
HOA financials & meeting files & data & email	Managing Agent & Estate Manager	3 Years	File Room, Locked Cabinets, off site PGPMS building
HOA former & current Employment Files & data & email	Managing Agent & Estate Manager	3 Years	File Room – , Locked Cabinets, off site PGPMS building