

ANNEXURE A

City of Cape Town

Nature Reserves

By-law, 2019

To regulate the management, use, control activities and access to nature reserves within the jurisdiction of the City of Cape Town; to engage user groups and stakeholders in a formalised manner; to provide for safe and environmentally sensitive recreation; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS the City is the designated management authority, appointed by the MEC, for nature reserves declared in terms of Section 23 of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003).

AND WHEREAS section 156(2) and (5) of the Constitution of the Republic of South Africa, 1996 provides that a municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer, and to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its functions;

WHEREAS Part B of Schedule 5 to the Constitution of the Republic of South Africa, 1996 lists local amenities and municipal parks and recreation as local government matters to the extent set out in section 155(6) (a) and 155(7);

AND WHEREAS the City of Cape Town has a responsibility in terms of the Constitution of the Republic of South Africa, 1996 and the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) and wishes to regulate and control the management and use of nature reserves within the jurisdiction of the City of Cape Town and for which the City is the designated management authority.

AND NOW THEREFORE, BE IT ENACTED by the Council of the City of Cape Town, as follows:-

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CHAPTER 1

INTRODUCTORY PROVISIONS

1. Definitions

In this By-law, unless the context indicates otherwise –

“aircraft” means any object driven or propelled, or which glides on or over the surface of a nature reserve, wholly or partly by mechanical or electrical power or which utilises electrical power in any way, in order to move through the airspace above a nature reserve.

“animal” means any organism whose taxonomical classification belongs to the kingdom ANIMALIA.

“authorised official” means an employee of the City responsible for carrying out any duty or function or exercising any power in terms of this By-law and includes employees delegated to carry out or exercise such duties, functions or powers;

“the Act” means the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003)

“City” means the City of Cape Town, a municipality established by the City of Cape Town Establishment Notice No. 479 of 22 September 2000, issued in terms of the *Local Government: Municipal Structures Act, 1998* (Act No. 117 of 1998), or any structure or employee of the City acting in terms of delegated authority;

“code of conduct” means a written set of specific rules for the use of a specific nature reserve by users and are not contrary to this By-law;

“management plan” means a plan drafted and submitted to the MEC in compliance with Section 39(2) of the Act.

“model aircraft” means any miniature aircraft not capable of, or intended for the conveying of persons, controlled from a remote location and includes recreational/toy drones;

“nature reserve” means an area proclaimed, protected or published in any government or provincial gazette in terms of any law for the purposes of nature conservation in the City and which is managed by the City or designated management authority where there is a co-management agreement in place;

“nature area” means any area set aside, un-proclaimed, and managed as a nature area for nature conservation objectives by the City or landowner where there is a co-management agreement in place.

“notice” includes a direction or prohibition, determined by the City, being prominently displayed in writing, optionally combined with the use of pictograms, or a notice board erected at or near a nature reserve point of entry or exit , and **“notify”** shall have a corresponding meaning;

“nuisance” means any act, omission or condition which is offensive, injurious or dangerous to health, or which materially interferes with the ordinary comfort, safety, convenience, peace or quiet of any user of a nature reserve or amenity connected therewith;

“open access areas” means a portion of a nature reserve which can be entered and traversed by any means where entry to such portion of the nature reserve is not restricted or controlled by any access point or gate;

“operating times” means the period of time between and including the opening time and closing time of a nature reserve as depicted on a notice board;

“overnight” means to be present and includes camping in designated areas in a nature reserve between sunset and sunrise;

“peace officer” means any authorised official who is also appointed in terms of section 334(1) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and includes any person appointed to a police service in terms of the South African Police Services Act, 1995 (Act 68 of 1995);

“pick” includes cut, chop off, take, gather, pluck, uproot, break, damage or destroy;

“Protected Area Advisory Committee” means a committee established in terms of the Regulations for the Proper Administration of Nature Reserves (Government Gazette No. 35021, GNR.99 of 8 February 2012) made in terms of the Act.

“recreational area” means any area set aside in terms of the management plan for general recreational use by the public inside a nature reserve;

“recreational water” means any inland water body, lake, river, stream, wetland, vlei, dam, estuary or portion thereof, which is owned or managed by the City, and includes the verges or banks of such areas, against which water may tidally, periodically or seasonally rise, and which is also owned or managed by the City;

“Remotely piloted aircraft system” (RPAS) means an unmanned aircraft which is piloted from a remote pilot station and includes the RPAS commonly referred to as drones.

“safety officer” means a person not employed by the City, who is nominated and appointed in terms of section 5 to perform certain functions on a voluntary basis;

“species” means a kind of animal, plant or other organism that does not normally interbreed with individuals of another kind, and includes any subspecies, cultivar, variety, geographic race, strain, hybrid or geographically separate population;

“specimen” means—

- (a) any living or dead animal, plant or other organism;
- (b) a seed, egg, gamete or propagule or part of an animal, plant or other organism capable of propagation or reproduction or in any way transferring genetic traits;
- (c) any derivative of any animal, plant or other organism; or
- (d) any goods which—
 - (i) contain a derivative of an animal, plant or other organism; or
 - (ii) from an accompanying document, from the packaging or mark or label, or from any other indications, appear to be or to contain a derivative of an animal, plant or other organism;

“stormwater system” means both the constructed and natural facilities, including pipes, culverts, watercourses and their associated floodplains, whether over or under public or privately owned land used or required for the management, collection, conveyance, temporary storage, control, monitoring, treatment, use and disposal of stormwater;

“vehicle” means anything defined as a motor vehicle in terms of the National Road Traffic Act, 1996 (Act No. 93 of 1996); or any conveyance designed or adapted principally to travel on wheels or tracks.

“vessel” means a power boat, electrical boat, boat, sail boat, windsurf board, surf kite and any manner of canoe or paddle boat, including any flotation device that can be stood on, sat on or in, irrespective of whether it is powered by mechanical, electrical or manual means;

“water area” means the water and the bed of any tidal lagoon, natural lake, tidal river, river or stream, dam, impoundment or wetland or any part thereof, situated within a nature reserve, and includes the water and the land between the lowest line and the highest line to which the water-level of such a tidal lagoon, natural lake, tidal river, river or stream, dam, impoundment or wetland or any part thereof may recede or rise at any time;

“written authorisation” means written consent issued by an authorised official of the City in terms of this by-law, and includes any permit issued in terms of Section 15(1) or identification card issued in terms of Section 5 (5).

2. Application

This By-law applies to any area which is –

- a) proclaimed or recognised as a protected area in terms of the Act;
- b) managed as a nature area with an in perpetuity agreement with the landowner and registered against the title deeds, or
- c) land acquired by the City for the express purposes of nature conservation and where such intent is adopted through a Council resolution.

CHAPTER 2

POWERS AND RESPONSIBILITIES OF THE CITY

3. Functions

The City may in managing the nature reserve -

- (1) manage breeding and cultivation programmes, and reserve areas in a nature reserve as breeding places and nurseries;
- (2) sell, exchange or donate any animal, plant or other organism occurring in a nature reserve, or purchase, exchange or otherwise acquire any indigenous species which it may consider desirable to re-introduce into a specific nature reserve;
- (3) undertake and promote research;
- (4) control, remove or eradicate any species or specimens of species which it considers undesirable to protect and conserve in a nature reserve or that may negatively impact on the biodiversity of the nature reserve;
- (5) carry out any development and construct or erect any infrastructure necessary for the management of a nature reserve, subject to an

environmental authorisation in terms of Section 24 of National Environmental Management Act, 1998 (Act No. 107 of 1998), applicable by-laws and the management plan;

(6) allow visitors to a nature reserve;

(7) take reasonable steps to ensure the security and well-being of visitors and staff;

(8) provide accommodation and facilities for visitors and staff, including the provision of food and household supplies;

(9) carry on any business or trade or provide other services for the convenience of visitors and staff, including the sale of liquor subject to applicable laws ;

(10) authorise any person, subject to such conditions as it may determine, to—

(i) carry on any business or trade, or provide any service, which the management authority may carry on or provide in terms of this section; and

(ii) provide the infrastructure for such business, trade or service;

(11) by agreement with

(i) other City Departments ,provide any service in a nature reserve for the management of the nature reserve which the City may be mandated to provide in terms of legislation; or

(ii) any other organ of state, perform a function in a nature reserve which that organ of state may perform in terms of legislation; or

(12) issue Notices in terms of section 6.

4. Commercial, community and visitor activities

(1) The City may, in terms of the management plan, set aside a part of a nature reserve, as an area in which a particular activity may be undertaken by visitors to the nature reserve, communities or interest groups and must display a notice in which such area is described at the entrance to the nature reserve: Provided that the activity does not compromise the purpose for which the nature reserve was established.

(2) The City may, in consultation with user groups, develop codes of conduct for specific activities authorised within a nature reserve.

5. Safety Officers

- (1) Any recognised organisation, club or representative body that has an interest in any nature reserve may nominate persons to the Protected Area Advisory Committee, or the reserve manager, for consideration as safety officers.
- (2) A Protected Area Advisory Committee may nominate safety officers to the City for a relevant nature reserve.
- (3) The City may appoint safety officers for a nature reserve and set in writing any prerequisites, terms, conditions or restrictions on any such appointments.
- (4) The City must inform the Protected Area Advisory Committee of any safety officers that it appoints.
- (5) The City must issue any duly appointed safety officer with a written authorisation and an identification card.
- (6) The safety officer must when performing any responsibility with regards to this by-law have in his/her possession their identification card or written authorisation.
- (7) The safety officer may issue verbal or written instructions to visitors relating to compliance with this by-law in terms of the conditions of their written authorisation.
- (8) The safety officer may make written recommendations to the designated management authority regarding compliance with this by-law by user groups and visitors for further action and enforcement.
- (9) The City may, upon recommendation by the relevant Protected Area Advisory Committee or of its own accord, cancel the appointment of any safety officer.

6. Notices

- (1) In relation to a nature reserve, the City may from time to time and by means of a Notice displayed at the entrance to or at, other relevant places of a nature reserve—
 - (a) set aside any land or water area;
 - (b) designate any land or water area as a recreational area;
 - (c) designate any land or water area for any purpose other than recreation;

(d) prohibit or restrict the use and access of any person, vehicle, vessel, pet or species or specimen to any land or water area or any other place or part thereof; or

(e) designate the times and conditions during which and subject to which any sports or other activities may be practised or performed on such land or water area.

(2) A Notice may impose conditions in relation to the participation in or undertaking of any activity in a nature reserve and the City may vary or revoke a Notice at any time by a subsequent Notice.

(3) The City may prescribe symbols or pictograms to be used on public notice boards and these shall have the meaning prescribed in the list of approved pictograms.

(4) The City may erect public notice boards within or near the nature reserve to notify interested and affected parties of permissible activities and prohibitions in terms of this By-law.

(5) In addition, the City may -

(a) publish or broadcast the notice in a manner that is reasonably likely to bring it to the attention of interested and affected persons;

(b) distribute copies of the notice to persons owning or occupying land in the vicinity of the affected nature reserve; or

(c) use public meetings, protected area advisory committee meetings or other means of bringing information to the attention of interested and affected persons.

7. Recreational areas inside Nature Reserves

(1) The City may within a recreational area display any notice required under this by-law.

(2) In relation to recreational areas, the City may prominently display a notice at an entrance to a recreational area indicating -

(a) the opening and closing times of that recreational area; and

(b) any rules made by the management authority in relation to that recreational area.

CHAPTER 3

THE USE OF BIOLOGICAL RESOURCES IN NATURE RESERVES

8. Use of biological resources

The City may, upon application and subject to the provisions of a management plan, by means of the granting of a non-transferable written authorisation or the entering into of a written agreement, with the conditions it deems necessary, grant to any person the right to the sustainable, monitored use of identified biological resources in a nature reserve.

9. Community based natural resource utilization

The City may upon application and subject to the provisions of a management plan, by means of the granting of a written authorisation or the entering into of a written agreement, and on the conditions it deems necessary, grant to any local community the right to the sustainable, monitored use of identified biological resources in a nature reserve.

10. Authorisation for use of biological resources

- (1) A written authorisation or written agreement contemplated in sections 8 or 9, must—
- a) not be in conflict with the purpose for which a nature reserve was established;
 - b) define the land or water area within which the use of the biological resources is granted;
 - c) indicate the period for which the right contemplated in sections 8 and 9 is granted; and
 - d) determine the limits to the use of the biological resources.
- (2) The City must demarcate the land or water area contemplated in subsection (1)(b) in a manner it deems fit.

(3) An authorisation granted in terms of sections 8 or 9 may not interfere with the exercise of any authorisation which has been granted to another person in respect of the area contemplated in sub regulation (1)(b).

(4) An authorisation granted in terms of sections 8 or 9 must include a stipulated notice period for cancellation of the right or amendment of the conditions granting the right.

(5) The City may cancel an authorisation granted in terms of sections 8 or 9 in respect of the area or part thereof, if such area or part thereof is required for conservation purposes or for purposes approved by the City.

(6) The City may cancel an authorisation granted in terms of sections 8 or 9 if the conditions set by the City are not complied with by the relevant person or local community or the resource or any other component of the nature reserve is threatened.

(7) An authorised official may instruct a holder of an authorisation contemplated in sections 8 or 9 to cease all activities immediately and take any action if the aforementioned holder of the written authorisation is found or deemed, to be in contravention of any conditions stipulated in the written authorisation.

(8) An authorised official may at any time cancel or suspend such authorisation contemplated in sections 8 & 9 in the event of an emergency, disaster, threat to life or safety, threat to the environment, or in any circumstance where the authorised official deems the ongoing activity to be detrimental in any way to the nature reserve.

CHAPTER 4

ACCESS TO NATURE RESERVES

11. Access to nature reserve by user of biological resources

(1) The holder of a written authorisation granted in terms of sections 8 or 9 above may, subject to any condition contained in a written authorisation , use a road, or path, identified by the City, for the reasonable exercise of a written authorisation to use biological resources: Provided that -

- (a) the City may close any access road or limit the use thereof for management purposes;
- (b) if a holder of a written authorisation fails to remove or repair any obstruction on an access road caused as a result of the exercise of a written authorisation, the City may undertake such removal or repair and recover the cost in this regard from the holder of the written authorisation;
- (c) the City may impose restrictions on the type of vehicle, machinery or equipment which is permitted on an access road in order to prevent any environmental or other damage;
- (d) the holder of a written authorisation must keep every access road used, reasonable wear excluded, in a good driving condition; and
- (e) a holder of a written authorisation may not create or construct any new access road for the removal of biological resources or for any other reason, without the written authorisation of the City.

12. Admission

(1) A person who has been granted entry into a nature reserve may be allowed admission only to a specific area and at designated times as determined by the City.

(2) The City may close a nature reserve or any part of a nature reserve-

- (a) if, in the City's opinion-
 - (i) the closure is necessary or desirable for the proper management of the nature reserve;
 - (ii) the closure is necessary for the City to perform any of its functions in terms of the Act or this by-law; or
 - (iii) the safety of persons may be compromised;
- (b) if a fire-ban is in force in an area that includes all or part of the nature reserve;
- (c) if the risk of uncontrolled fire in the nature reserve is, in the City's opinion, extreme;
- (d) if the City's staff necessary to patrol or secure the nature reserve are unavailable; or
- (e) if, in the City's opinion, it is in the interest of public safety to close the nature reserve.

(3) No person may, without the written authorisation of the City, enter or remain in a nature reserve, or part thereof, that has been closed in terms of subsection (2).

13. Entrance and accommodation in a nature reserve

Any person entering or staying in a nature reserve is subject to conditions of entry set by the City.

14. Points of entry and exit

(1) No person may, other than in open access areas of a nature reserve, or subject to the provisions of section 11, enter or leave a nature reserve at any place other than through the designated points of entry or exit, without the written authorisation of the City.

(2) Where a public road, pathway, cycle path, or railway line passes through a nature reserve-

(a) no written authorisation is required by a person to pass through the nature reserve on such public road, pathway, cycle path, or railway line to a destination outside the nature reserve in question; and

(b) no person may -

(i) leave such public road, pathway, cycle path, or railway line ;

(ii) Enter into a nature reserve from such public road, pathway, cycle path, or railway line other than in compliance with section 12(1).

(3) No person may fly an aircraft at a height below 1500ft above ground level without the written authorisation from the City.

(4) No person may land, or attempt to land, an aircraft in a nature reserve without the prior written authorisation from the City.

(5) No person may fly a remotely piloted aircraft system (RPAS) over a nature reserve or land such RPAS in a nature reserve without the written authorisation from the City.

(6) Subsection (4) does not apply-

(a) in the case of an emergency; or

(b) to a person acting on the instructions of an authorised official.

(7) An aircraft performing an emergency landing as per subsection (6)(a) above, must report such emergency landing and the nature thereof to the City before the aircraft

is removed from the nature reserve and to the reserve manager, or his nominee, within a reasonable time, depending on the nature of the emergency.

15. Proof of entry

(1) Where a written authorisation, or entry permit, is required for entry to a nature reserve, a person who enters the nature reserve in a vehicle or on foot, must ensure that the written authorisation or entry permit is in his or her possession, and available for inspection at all times until he or she leaves the nature reserve.

(2) Where a written authorisation is issued for overnighting in a nature reserve, the written authorisation must be displayed at all times in the vehicle in accordance with subsection (3) while he or she is overnighting in or near the vehicle.

(3) For purposes of this By-law a written authorisation contemplated in subsection (2) is displayed in a vehicle only if-

- (a) the written authorisation is displayed on the inside of the windscreen on the side of the vehicle opposite to the driver's position; or
- (b) where, because of the design of the vehicle, it is not possible to comply with paragraph (a) the written authorisation displayed in a permanent position in or on the vehicle, so that the written authorisation is facing outwards from the vehicle and can be easily seen and read by a person outside the vehicle.

16. Safe entering

No person may enter or take a vehicle or vessel into a nature reserve, onto a place, road, river or water area in an unsafe, reckless or negligent manner.

17. Staying overnight

(1) No person may stay overnight in a nature reserve-

- (a) without the written authorisation of the City;
- (b) without having first reported to the nature reserve reception office in a nature reserve or to an authorised person assigned by the City to perform escort duty;

- (c) where no accommodation has been reserved or is available for that person;
- (d) on a houseboat or any vessel without the written authorisation of the City; or
- (e) at any place other than a place designated for such activity by the City.

(2) No person may, without the written authorisation of the City contemplated in subsection (1), overnight in a nature reserve except in an area set aside by the City for that purpose.

18. Times of entry and travel

(1) Nature reserves are open from sunrise to sunset, unless indicated otherwise by means of a notice at designated points of entry and at open access areas.

(2) No person may, without the written authorisation of the City, enter, leave or travel in a nature reserve at any time other than the times determined by the City, except in open access areas.

CHAPTER 5

RESTRICTED ACTIVITIES

19. Activities which may have an adverse effect in a nature reserve

- (1) No person may without the written authority of the City in a nature reserve-
- (a) introduce any specimen, or part thereof to a nature reserve;
 - (b) convey, move or otherwise translocate any specimen in a nature reserve;
 - (c) intentionally disturb any species or specimen in a nature reserve;
 - (d) feed any species or specimen in a nature reserve;
 - (e) use any recording of any species or specimen or the imagery or scent of a species or specimen to attract animals in a nature reserve;
 - (f) lure, bait or attract by any means or for any purpose or intention any species or specimen in a nature reserve;

- (g) cut, damage, remove or destroy or be in possession of any plant or any part thereof, including dry wood in a nature reserve;
- (h) hunt, capture or kill any living animal by any means, method or device whatsoever, including searching, pursuing, driving, lying in wait, luring, alluring, discharging a missile or projectile or injuring with intent to hunt, catch, capture or kill any such animal in a nature reserve;
- (i) gather, collect or pluck any specimen in a nature reserve;
- (j) pick parts of, or cut, chop off, uproot, damage or destroy, any specimen in a nature reserve;
- (k) possess or exercise physical control over any specimen in a nature reserve;
- (l) grow, breed or in any other way propagate any specimen or cause it to multiply in a nature reserve;
- (m) sell or otherwise trade in, buy, receive, give, donate or accept as a gift, or in any way acquire or dispose of any specimen in a nature reserve; or
- (n) angle, attempt to angle, catch or attempt to catch fish in a nature reserve other than in an area designated for such purpose.

(2) Sub-section (19)(1)(f) does not apply to the use of bait or lures for the purpose of angling where such activity is permitted in a nature reserve.

(3) No person within a nature reserve may–

- (a) intentionally or negligently cause pollution;
- (b) deface cultural heritage resources; or
- (c) harm, or cause death to any individual specimen or population of any species without the prior written authorisation of the City.

(4) No person may, other than with prior written authorisation of the City and subject to the management plan and NEMA regulations, open or close the mouth of a tidal lagoon or tidal river within a nature reserve.

(5) No person may, within a nature reserve place, throw, dump, or let out any refuse, rubbish, used containers, effluent, toilet waste, or any objectionable material in areas other than those designated fit for this purpose by the City.

20. Specified activities

(1) No person may undertake any of the following activities in a nature reserve except pursuant to a written authorisation of the City and in accordance with an approved management plan or environmental management plan for the specified activity:

- (a) the filming and simultaneous transmitting of photographic images by the use of a webcam or other image recording or transmitting device, including trail cams;
- (b) the conducting of tours;
- (c) the conducting of any kind of competition;
- (d) the selling or hiring of goods or the offering of goods for sale or hire;
- (e) the provision of , or the offering to provide, any service for a fee or reward;
- (f) any activity of any kind for the purpose of fund raising, personal gain, making a profit, or advertising;
- (g) any organised special event, including sporting or cultural events;
- (h) visual imaging of animals for any virtual hunting or other such activity; or
- (i) conducting any type of training, exercises or simulations.

21. Research and monitoring

(1) No person may in a nature reserve, without written authorisation of the City, carry out scientific or general research or undertake monitoring projects.

(2) Any person undertaking scientific or general research or monitoring projects in a nature reserve must—

- (a) submit a research proposal to the City;
- (b) be in possession of all required permits and authorisations in terms of any other law;
- (c) comply with all specified conditions in the written authorisation;
- (d) submit all data and information gathered, to the City, in a format determined and at stages of the project specified by the City; and
- (e) submit copies of all reports and findings to the City upon completion.

22. Interference with soil or substrate

(1) No person may, except with the prior written authorisation of the City and subject to any other applicable laws-

(a) remove from a nature reserve any-

- (i) soil, sand, gravel, pebbles, stone, rock, shell grit or mineral or similar material;
- (ii) wood, mulch or other dead vegetation;
- (iii) fossil, archaeological remains or cultural artefacts;
- (iv) coral or sea shells; or
- (v) animal faecal matter;

(b) dig any soil or similar material in a nature reserve; or

(c) intentionally disturb in a nature reserve –

- (i) wood, mulch, peat or other dead vegetation or animal;
- (ii) termite mounds or bees nests;
- (iii) fossil, shell midden, archaeological remains or paleontological specimens or meteorites;
- (iv) any of the marine components contemplated in paragraph (a);
- (v) any object or material that is or was used for any ritual, spiritual or other practice; or
- (vi) any object that has historical or cultural significance.

23. Bioprospecting

No person may undertake any manner or form of bioprospecting in a nature reserve without the prior written authorisation of the City and subject to such conditions as determined by the City.

24. Buildings and improvements

(1) Written authorisation of the City, for any building development and improvements in a nature reserve is subject to prior environmental authorisation in terms of section 24 of the National Environmental Management Act, 1998(NEMA).

(2) No person may in a nature reserve, without prior written authorisation of the City, erect, construct or transform or cause to be erected, constructed or transformed any

building, structure or any other improvement, including but not limited to a building or structure of any kind, jetty, dock, pier, landing stage, landing float, anchor buoy, raft, fence or any obstruction, bridge, pontoon, road or crossing in respect of a building or immovable property.

(3) Any person who has applied in terms of subsection (2) for the erection of a building or any other improvement in respect of a building or other immovable property must, if required to do so by the City—

(a) in the case where prior environmental authorisation in terms of section 24 of NEMA is not required in terms of any law, employ an independent environmental consultant to conduct an assessment of the proposed erection or improvement in compliance with the minimum requirements set by the NEMA, or other applicable legislation, and to submit the findings of the assessment to the City;

(b) in instances where prior environmental authorisation in terms of section 24 of NEMA is compulsory, provide the City with such environmental authorisation before the City considers the application.

25. French drains, pit latrines and other sewerage disposal systems

No person may, without the prior written authorisation of the City, accompanied by a site plan, establish or in any way alter, extend or enlarge any french drain system, pit latrine or any other sewerage disposal system on any land situated within a nature reserve or replace it with another french drain system, pit latrine or any other sewerage disposal system.

26. Holiday resort, caravan park, camping or picnic site

No person may erect, establish, transform, extend or enlarge any holiday resort, caravan park or camping or picnic site within a nature reserve at which members of the public can stay, camp or picnic, upon payment of a fee or not, other than in accordance with the management plan for the nature reserve.

27. Land and airspace

No person may in a nature reserve, except with the prior written authorisation of the City-

- (a) engage in the sport of climbing rock faces;
- (b) engage in the sport of parachuting or abseiling;
- (c) land or take off in, or attempt to land or take off in, any aircraft, helicopter, glider, hang glider, paraglider or hot air balloon;
- (d) launch or fly a hot air balloon;
- (e) fly model planes, RPAS or gliders;
- (f) engage in the sport of any kind of boarding;
- (g) operate any motorised vehicle for recreational purposes;
- (h) launch or propel, a missile or flare into the airspace above a nature reserve unless such activity is a bona fide emergency; or
- (i) possess, ignite or use any fireworks.

28. Water areas

(1) No person may, without the written authorisation of the City, launch, or use a vessel on a dam, reservoir, lake, river or other body of water in a nature reserve unless the water has been set aside by the City for the use of vessels.

(2) No person may carry out any repairs, servicing, testing, painting of any vessel in a water area in a nature reserve unless the prior written authorisation by the City has been obtained.

(3) No person may dispose of any solid or liquid waste, including motor oil, into a water area in a nature reserve other than in places designated by the City therefore.

29. Removal and dumping in water areas

No persons may, without the prior written authorisation of the City and subject to the conditions imposed by the City, in any manner in a nature reserve—

- (a) remove, dredge, pump or move any sand, soil or stones from a water area;
- (b) deposit, dump or throw sand, soil, stones or other material of any kind in a water area.

30. Domestic animals in nature reserves

(1) No person may, except on conditions determined by the City from time to time, allow any dog, cat or other domestic animal belonging to or under the care of that person to enter and remain in a nature reserve.

(2) Any dog, cat or other domestic animal contemplated in section 30(1) which is not in the care of any person, may be caught and removed, impounded or destroyed at the discretion of the City.

(3) Any dog, cat or other domestic animal not in direct control by means of a leash or similar restraint, in a nature reserve may be caught and removed or impounded or destroyed at the discretion of the City.

31. Firearms and dangerous weapons

(1) No person other than an authorised official or contractor with written authorisation of the City, entering a nature reserve may be in possession of any firearm, dangerous weapon, explosive, trap or poison.

32. General restrictions

(1) No person may in a nature reserve without the written authorisation of the City—

- (a) offer any show or entertainment, conduct any business or trade or collect any money from the public;
- (b) carry on any agricultural or gardening activities subject to the conditions which the City may lay down from time to time;
- (c) use or cause to be used, any loud speaker or similar device or other noisy equipment;
- (d) construct or erect any booth, marquee or other structure; or
- (e) organise or cause to be organised or attend or participate in any public meeting, demonstration or gathering.

(2) No person may -

- (a) intentionally or negligently cause a fire or discard any burning object in any place where it may set fire to any other object or otherwise act in a manner

likely to cause a fire other than at a place where the making of a fire is permitted by the City; or

(b) smoke in a nature reserve, other than in areas designated for smoking.

- (3) Interfere with any City staff member or authorised official undertaking his or her duties.

CHAPTER 6

PROHIBITED ACTIVITIES

33. Prohibitions relating to vehicles

- (1) No person driving a vehicle in a nature reserve may-
- (a) drive, park, or stop in such a manner that constitutes a nuisance, disturbance, inconvenience or danger to any other person or vehicle;
 - (b) drive, park or stop in any manner that causes an obstruction, blocks the pathway of a management operation or emergency vehicle;
 - (c) park a vehicle in a place other than in a place designated for that purpose by the City;
 - (d) drive or park anywhere except on a designated road or designated parking area;
 - (e) drive or operate any vehicle in a reckless or negligent manner or in a deliberate or intentional disregard for the safety of any person, species, specimen or property of whatever nature;
 - (f) drive a vehicle off-road or off designated roads or tracks, except in an area set aside by the City for that purpose; or
 - (g) drive a vehicle for recreational purposes, including, but not limited to, 4x4ing, offroading, quadbiking and motorbiking in any area not demarcated for such recreational activity.
- (2) The City may restrict or preclude the use of any vehicle or vehicle type within a nature reserve or section of a nature reserve.

(3) No person may enter or travel in a nature reserve except in a vehicle that conforms to the dimensions and other requirements determined by the City.

34. Littering and pollution

(1) No person may, in a nature reserve-

- (a) deposit or leave any litter which is either industrial or domestic, regardless of whether that litter is biodegradable or non-biodegradable, except in an area or receptacle provided for that purpose;
- (b) deposit or leave any litter, bottle, broken glass, china, pottery, plastic article, rubbish, refuse, seeds, fruit or vegetable matter or other waste material, except in an area or receptacle provided for that purpose;
- (c) deposit, discharge or leave any noxious, smelly, offensive or polluting substance, matter or thing;
- (d) deposit or leave any offal, dead species or specimen or dung;
- (e) deposit, except in any receptacle provided for litter, any domestic garbage;
- (f) intentionally break any article of glass, china, pottery, plastic or other brittle material;
- (g) deposit, discharge or leave any mineral, mineral waste or other industrial waste or by-product thereof;
- (h) discard or discharge any toxic chemical or substance, pharmaceutical substance, including biocides, or any other pollutant or harmful substance; or
- (i) dispose of containers or residuals of aerosols or any other hazardous substance of such nature.

35. Pollution of water

No person may, at any time or in any manner, including by the use of detergents, pollute any water area, wetland, spring, pan, well, borehole, groundwater, dam, reservoir or lake in a nature reserve.

36. General prohibitions

(1) No person may, in a nature reserve-

- (a) unlawfully occupy, build on, move into, inhabit or use any existing land, building or structure;
 - (b) at any time play any radio, compact disc player, music system, musical instrument or in any way whatsoever cause any noise in a manner that is likely to disturb any species or specimen or other person;
 - (c) behave in an offensive, improper, indecent or disorderly manner;
 - (d) engage in sexual activity or solicit any person for the purpose of prostitution or immorality;
 - (e) dispose of or leave any trash, waste or any other objects at any place, except in identified waste containers specifically provided for waste disposal;
 - (f) throw, place or dispose of any item, medium or object in water, that may directly or indirectly cause any pollution;
 - (g) allow any livestock, donkeys, horses, mules or any other type of animal to enter a nature reserve, and where such animals are allowed, fail to keep such animals on a leash or any similar type of restraint; or
 - (h) subject to written authorisation granted in chapter 3, cut, remove, dig up, fell, burn, pluck, break, climb up or upon or cause damage to timber or to any tree, shrub, brushwood, fencing post, pole, fern, turf, grass, fruit, flower, plant or vegetation.
 - (i) create or construct any new access roads, paths or tracks.
- (2) No person may, in a nature reserve, intentionally obstruct, disturb, interrupt or annoy any other person utilising the nature reserve in compliance with this by-law.
- (3) No person may discharge a firearm within a nature reserve, except-
- (a) if that person is authorised by the City thereto;
 - (b) for the discharge of a blank by a life-guard during an organized competition or by any other person authorised by the City, during a sports meeting in a water area;
 - (c) in connection with the collection of specimens for scientific purposes, subject to the written authorisation of the City; or
 - (d) to give a distress signal.

(4) No person may, in a nature reserve, throw, roll or discharge any stone, substance, projectile or missile to endanger any person or species or specimen in the nature reserve.

CHAPTER 7

FEES AND TARIFFS

37. Fees and tariffs

- (1) The City shall annually determine the fees and tariffs applicable for—
- (a) access to nature reserves;
 - (b) the use of any amenity, service, facility, entertainment venue, show or performance presented or provided or rendered by or on behalf of the City, at or in a nature reserve; and
 - (c) costs associated with any remedial action undertaken by the City due to non-compliance with the By-law.
- (2) The City may recover costs associated with remedial action undertaken due to non-compliance with the By-law.
- (3) The City may suspend the payment of entrance fees on any specific day as it may deem fit.

38. Commercial Activities

No person may undertake any activities of a commercial nature, including the operation of any entertainment device, the sale of any goods, the hire of any equipment, or any similar activity on any nature reserve, without written authorisation from the City.

CHAPTER 8

COMPLIANCE AND ENFORCEMENT

39. Authorised officials

(1) The City may appoint any member of staff as an authorised official.

(2) Any duly appointed authorised official must be in possession of the prescribed staff identification card when exercising any power in terms of this By-law and must upon request produce such card.

(3) Should the authorised official considered in subsection (2) fail to produce the staff identification card then no power granted in terms of this By-law can be exercised.

40. Powers of authorised officials

Notwithstanding the provisions of this By-law, and subject to any other applicable legislation, an authorised official may —

(1) launch, operate or use any vehicle or vessel upon any recreational water or in any nature reserve for the purpose of providing an emergency, rescue or transport service, to provide a municipal service, to ensure compliance with this By-law, or for the purpose of undertaking research, monitoring or conducting a survey;

(2) do anything in a nature reserve in the exercise of a lawful power or duty; and

(3) in any nature reserve, use prohibited means of fishing, hunt any animal, and collect biological specimens in order to eradicate, control, or collect information for the control, monitoring and research of such organisms in the course of their duties.

41. Enforcement powers of peace officers and authorised officials

(1) Any peace officer or an authorised official may—

(a) order any person who contravenes this By-law to immediately leave and depart the nature reserve;

- (b) order any person who contravenes this By-law to remove any vehicle under the control of such person; or both to leave and remove any vehicle, from any nature reserve;
 - (c) Issue a compliance notice to any person who contravenes this By-law; or
 - (d) Issue a fine to any person who contravenes this By-law.
- (2) Should the person referred to in subsection (1) fail to comply with such an order or notice, the peace officer or authorised official may fine such person and remove the vehicle, or cause it to be removed from the nature reserve and the costs incurred in removing it shall be borne by the owner of such vehicle.
- (3) Any peace officer or authorised official may issue a lawful instruction, whether verbally or in writing, to any person in a nature reserve and the instruction must be complied with immediately.
- (4) Any peace officer or authorised official may inspect or search any vehicle, entering or exiting a nature reserve.

42. Compliance Notice

- (1) A compliance notice issued in terms of section 41 (1)(c) must-
- (a) describe the conduct constituting a contravention of this By-Law;
 - (b) indicate which provision of this By-Law, condition of approval or provision of any other law the conduct contravenes;
 - (c) state that the unlawful conduct constitutes an offence and indicate the penalty;
 - (d) instruct the person to cease the unlawful conduct and to comply with this By-Law, condition of approval or provision of any other law immediately or within a time period determined by the City, and where relevant must specify the steps to be taken to comply; and
 - (e) state that a failure to comply with the notice constitutes a further offence and indicate the penalty.
- (3) The notice may invite the person within a specified time to, in writing, inform the City of what steps have been taken to comply with the notice.

43. Impoundment or holding of goods

- (1) Subject to the City's procedures relating to impoundment, an authorised official may –
- a) hold goods that are not permitted into a nature reserve; or
 - b) hold or impound goods where he or she reasonably suspects that such goods may, are or have been used in contravention of this by-law.
- (2) Impounded goods may be returned to the owner from whom they were taken in accordance with the City's procedures relating to impoundment.
- (3) Goods held may be returned to the owner from whom they were taken –
- (a) where holding was effected to ensure safety and, in the discretion of the authorised official, the threat to safety no longer exists; or
 - (b) upon exit from the nature reserve .

44. Impounding of vessel or vehicle

- (1) In terms of Section 23 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) an authorised official may, without a warrant, seize and impound a vessel or vehicle which is concerned or is on reasonable grounds believed to be concerned with the commission of an offence in terms of this By-Law.
- (2) The authorised official, at the time of the impoundment, must give the holder of the impounded vessel or vehicle a notice setting out –
- (a) the reason for the impoundment;
 - (b) a description of the impounded vessel or vehicle;
 - (c) the address and contact details of the designated pound;
 - (d) the impoundment fee; and
 - (e) a warning that the impounded vessel or vehicle may be sold to recover the impoundment fee and any fine, costs or damages.
- (3) The authorised official must cause an impounded vessel or vehicle to be taken to a designated pound where it must be retained and dealt with in terms of this section.
- (4) The City must release the impounded vessel or vehicle to the owner upon presentation of proof of ownership if, in relation to the offence contemplated in subsection (1) –
- (a) a criminal charge is not laid, a fine or a notice of intention to prosecute is not issued within 72 hours of the impoundment; or

- (b) the criminal case against all accused persons is disposed of because –
 - (i) the charges are withdrawn;
 - (ii) the accused persons are acquitted; or
 - (iii) the accused persons are convicted and either the impoundment fee and any fine, costs and damages are paid.
- (5) An impounded vessel or vehicle is forfeited to the City and becomes the property of the City if –
 - (a) a court orders such forfeiture; or
 - (b) the lawful owner of the vessel or vehicle cannot be traced within 90 days of such impoundment after reasonable efforts to trace the owner have not been successful.
- (6) If any payment contemplated in subsection (4)(b)(iii) is not made within such time as the City may determine, and if no appeal has been lodged at the expiry of the time limit for an appeal, the City may sell an impounded vessel or vehicle and deal with any net proceeds in accordance with subsection (7).
- (7) Any net proceeds from the sale of an impounded vessel or vehicle must be applied as follows and in this order:
 - (a) the recovery of costs incurred by the City during forfeiture and impoundment;
 - (b) the payment of the impoundment fee, and any fine, costs or damages ordered by a court in relation to an offence contemplated in subsection (1); and
 - (c) return to the person who lawfully owned the vessel or vehicle at the time of the impoundment except where the vehicle or vessel was forfeited to the City.
- (8) The City may determine an impoundment fee and designate a pound contemplated in this section.

CHAPTER 9

OFFENCES AND PENALTIES

45. Offences

- (1) Any person who -
 - (a) contravenes a provision of this By-Law;
 - (b) contravenes any conditions, restrictions or prohibitions imposed in terms of this By-law;

- (c) fails to comply with the terms of any notice or signage displayed in terms of this By-law;
 - (d) contravenes a lawful instruction given by an authorised official in terms of this By-Law;
 - (e) threatens, obstructs, hinders or uses abusive language to an authorised official or a person lawfully accompanying the authorised official in the exercise of a power conferred in terms this By-Law;
 - (f) when called upon by an authorised official to furnish information, furnishes false or misleading information; or
 - (g) falsely holds himself or herself to be an authorised official or a person authorised to act on behalf of the City in terms of this By-Law.
- commits an offence.

46. Penalties

(1) Any person who commits an offence referred to in section 45 is liable to a fine or upon conviction to imprisonment for a period not exceeding 2 years or to such imprisonment without the option of a fine, or to both such fine and such imprisonment.

(2) In addition to imposing a fine or imprisonment, a court may order any person convicted of an offence in terms of this By-Law —

- (a) to rectify the harm caused;
- (b) to forfeit to the City a vessel or vehicle impounded in terms of section 44.
- (c) to pay the costs incurred by the City because of the contravention; and
- (d) to pay damages for harm caused to another person or property within the nature reserve.

(3) The City may ban any person who fails to comply with any provisions of this By-law and ban them from entering any nature reserve(s) for a determined period of time.

(4) The City may restrict access to a vessel or vehicle that fails to comply with any provisions of this By-law from entering a nature reserve for a determined period of time.

(5) A ban imposed in terms of subsections (3) and (4) must be reduced to writing and served on the person or owner of the vessel or vehicle.

(6) A person who has been banned in terms of subsections (3) and (4) above may make written representations to the Director Environmental Management as to why the ban should be lifted or reduced in length within 48 hours of the receipt thereof.

47. Appeals

Any person may appeal against an administrative decision taken by an authorised official in terms of this By-law in accordance with the provisions of section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

48. Short title and Commencement

This By-law is called the City of Cape Town: Nature Reserves By-law, 2019 and comes into operation on promulgation in the Provincial Gazette.