

CITY OF CAPE TOWN

DRAFT PUBLIC PARKS BY-LAW, 2009

15 April 2009

CITY OF CAPE TOWN
PUBLIC PARKS BY-LAW, 2009

To regulate the admission of persons, animals and vehicles to public parks; to provide for the use and enjoyment of public parks; to determine conduct that will not be permitted within public parks; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS section 156(2) and (5) of the Constitution of the Republic of South Africa, 1996 provides that a City 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;

AND WHEREAS Part B of Schedule 5 to the Constitution lists local amenities and municipal parks and recreation as local government matters;

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

Definitions

1. In this By-law, unless the context otherwise indicates -

“authorised official” means a member of staff of the City delegated by the City Manager and the Director: City Parks, or appointed by the City Manager to implement the provisions of this By-law;

“City” means the City of the City of Cape Town established in terms of section 12 of the Local Government: Municipal Structures Act, 1998(Act No. 117 of 1998), in Provincial Notice 479 of 2000 and published in Provincial Gazette Extraordinary 5588 dated 22 September 2000;

“City Manager” means the person appointed by the Council in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act NO. 117 OF 1998);

“Constitution” means the Constitution of the Republic of South Africa Act, 1996;

“Council” means the council of the City of Cape Town, being a council as provided for in terms of section 18 of the Local Government: Municipal Structures Act, 1998(Act No. 117 of 1998), or any committee, any sub-council, or any councillor of council, acting under council’s delegated or sub-delegated authority;

“Councillor” means the member of the Council;

“Director: City Parks” means the employee of the City in charge of public parks of the City;

“notice” means a written notification, or a pictogram issued in terms of this By-law as set out in the Schedule, prominently and legibly displayed at the entrance to or in

any facility or part thereof to which it is intended to apply;

“public park” means -

- (a) any botanical or other garden, play ground, zoned public open space, or park owned or leased by the City, including any portion thereof and any facility or apparatus therein or thereon, but excluding any public road or street; and
- (b) any botanical, other garden or play ground which is lawfully controlled and managed in terms of an agreement by a person other than the Council;

“Structures Act” means the Local Government: Municipal Structures Act, 1998 (Act No.117 of 1998);

“this By-law” includes the Schedule hereto;

“vehicle” means any self-propelled vehicle and includes-

- (a) a trailer; and
- (b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto which is designated or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor, but does not include -
 - (i) any vehicle propelled by electric power from storage batteries and which is controlled by a pedestrian; or
 - (ii) any vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person.

Delegation and appointment of authorised officials

2. (1) The City Manager may delegate any of his or her powers or assign any of his or her duties in terms of this By-law to any official of the City.

(2) The Director: City Parks may delegate any of his or her powers or assign any of his or her duties to any official of the City.

(3) Subject the recruitment policies of the City, the City Manager may appoint authorised officials to exercise and perform certain powers and duties in terms of this By-law.

Maximum number of persons

3.(1) The Director: City Parks may determine the maximum number of visitors who may be present at a specific time in a public park, provided that different numbers may be so determined for different parks and for different events.

(2) The numbers contemplated in subsection (1) must be made known by the Director: City Parks by means of a notice.

Admission to and visiting a public park

4.(1) A person who is admitted to gain access or visit a public park must, subject to the provisions of this By-law, observe and comply with all notices displayed in a public park or in the entrance thereto.

(2) Should a person fail to observe and comply with a notice referred to in subsection (1), the City shall not be liable for damage or injury suffered while such person is visiting the public park.

(3) A public park is, subject to the provisions of this By-law, open to the public on the times determined by the Director: City Parks, provided that different times may be determined in respect of different public parks.

(4) No person shall enter or leave an enclosed public park at a place other than that indicated for that purpose.

(5) The conditions times and places contemplated in subsections (1), (2) and (3) shall be made known by the Director: City Parks by means of a notice.

Entrance fees

5.(1) Any person, other than a person referred to in subsection (3) shall on entering a public park pay the entrance fees, if applicable, determined from time to time by the Council in accordance with the provisions of section 229 of the Constitution, read with section 74 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and such entrance fee shall be made known by means of a notice.

(2) Different entrance fees may be so determined in respect of visitors with disability and different ages.

(3) The Council may exempt certain persons or groups of persons from the payment of an entrance fee.

Dumping and Littering

6. No person shall in a public park -

- (a) dump, drop, bury or place any refuse, rubble, material or any object or thing; or
- (b) permit any dumping, dropping, burying, placing of any refuse, rubble, material or any object or thing,

except in a container identified for that purpose on the park.

Liquor and food

7-(1) No person shall, contrary to a notice, bring into a public park any liquor or any other alcoholic or intoxicating substance.

(2) No person shall in a public park, contrary to a notice, cook or prepare food of

any kind whatsoever, except at places set aside for such purposes by notice.

(3) The preparation and cooking of food at places set aside by notice for such purpose in or at a public park shall be done in a clean and sanitary manner.

(4) No live animal, poultry or fish may be killed, skinned or slaughtered in a public park without the written consent of the Director: City Parks having first been obtained.

Animals

8.(1) No person shall bring any live animal, reptile, bird, fish or poultry in a public park except in accordance with the directions of the Director: City Parks provided that different directions may be determined in respect of different public parks and different types of animals, birds, fish and poultry

(2) The directions contemplated in subsection (1) shall be made known by means of a notice.

(3) Carcasses may not be buried in a public park but must be disposed of at the owner's expense and in a manner approved by the Council.

Use of public parks

9.(1) No person shall in a public park without the written permission of the Director: City Parks or contrary to any conditions which the Director: City Parks may impose when granting such permission -

- (a) arrange or present any public entertainment;
- (b) display or distribute any pamphlet, placard, painting, book, handbill, sign, advertisement board or any other printed, written or painted work;
- (c) arrange, hold or address any meeting;
- (d) arrange or hold a public gathering or procession of less than 15 persons, or any exhibition or performance;
- (e) conduct any trade, occupation or business;
- (f) display, sell or rent or present for sale or rent any wares or articles;
- (g) hold an auction;
- (h) off-load or store building or other material.

(2) Subject to any other law, the written permission contemplated in subsection (1) shall be refused only if -

- (a) it is likely to give rise to –
 - (i) public rioting;
 - (ii) the disturbance of public peace;

- (iii) the committing of an offence;
- (iv) the committing of an indecent act;
- (b) it is detrimental to the public or the users of, or visitors to, the public park; or
- (c) it is likely to damage or destroy the amenities or plant material of the park.

Trees in public parks

10.(1) No person other than an authorized official shall-

- (a) plant or prune a tree or shrub, or in any way cut down a tree or a shrub, in a public park or remove it there from, except with the written permission of the Director: City Parks;
- (b) climb, break or damage a tree growing in a public park; or
- (c) in any way mark or paint any tree growing in a public park or attach any advertisement thereto.

(2) Any tree or shrub planted in a public park shall become the property of the City.

Safety and order

11.(1) No person shall, subject to subsection (2), in a public park -

- (a) damage, tamper with or destroy any equipment, amenity or structure;
- (b) pull out, pick or damage any plant, shrub, bulbs, vegetation or flower;
- (c) kill, hurt, follow, disturb, ill-treat or catch any animal, bird or fish or displace, disturb, destroy habitat or remove any bird nests or eggs;
- (d) use or try to use anything in such park for any purpose other than that for which it is designated;
- (e) discard any burning or smouldering object;
- (f) throw or dislodge any rock, stone or object from any mountains, slope or cliff;
- (g) behave in an improper, indecent, unruly, violent or anti-social manner or cause a disturbance;
- (h) walk, stand, sit or lie in a flower bed;
- (i) walk, stand, sit or lie on grass contrary to a notice;

- (j) lie on a bench or seating-place or use it in such a manner that prevents others from using it;
- (k) play or sit on playpark equipment, except if the person concerned is a child 14 years of age or younger, or as indicated in a notice;
- (l) swim, walk or play, contrary to a notice, in a fish-pond, fountain, stream, dam or pond;
- (m) skate on roller skates or a skateboard or similar device except where permitted by notice; or
- (n) leave behind any broken glass, unless it is deposited in a refuse bin.

(2) The Director: City Parks may by notice, and subject to such conditions as he or she may deem necessary, authorise any of the actions contemplated in subsection (1).

Water

12. No person may misuse, pollute or contaminate any water source, water supply or waste water in any public park.

Laundry and crockery

13. No person may in a public park wash any laundry or crockery except at places indicated by notice for that purpose.

Vehicles

14.(1) No person may bring into a public park any truck, bus, motorcar, motor cycle, quadbike, motor tricycle, or any other vehicle, craft or aeroplane, whether driven by mechanical, animal, natural or human power, except in accordance with the written permission of the Director: City Parks provided that different requirements or conditions may be determined for different public parks and for different vehicles, craft or aeroplanes.

(2) The Director: City Parks may determine the speed limit applicable in a public park, provided that different speed limits may be determined for different public parks and for different vehicles, craft or aeroplanes.

(3) The requirements or conditions contemplated in subsection (1) and the speed limit contemplated in subsection (2) shall be made known by a notice by the Director: City Parks.

Games

15. No person may play or conduct any game of any nature-

- (a) that will cause disturbance, or potentially disturb, or cause injury to other park users; and
- (b) except at places set aside for that purpose by notice and in accordance

with the directions of the Director: City Parks.

Improper or indecent behaviour

16. No person may in a public park -
- (a) perform an act which is indecent or conduct himself or herself improperly by exposure of his or her person or otherwise, or make improper gestures or incite or urge someone to perform a disorderly or indecent act;
 - (b) use foul, lewd or indecent language;
 - (c) write, paint, draw or in any way make a lewd, explicit or immoral figure, writing, drawing or representation; or
 - (d) enter or use a toilet facility intended or indicated as such by notice for members of the opposite sex, provided that this shall not apply to children below the age of seven.

Powers of an authorised official

17. An authorised official may -
- (a) in a public park at any time enter upon any place, land, premises or building and conduct an investigation thereat in order to determine whether the provisions of this By-law are complied with;
 - (b) for the better exercising of any power or the performance of any function or duty assigned or granted to him or her, take along an interpreter who, while acting under the lawful order of such an official, shall have the same powers, functions and duties as such official as contemplated in paragraph (a).

Amendment, change and addition of a notice or pictogram

18.(1) The Director: City Parks may, subject to the provisions of this By-Law, amend, change or add any notice or pictogram mentioned in the Schedule.

(2) The Director: City Parks must, within 5 working days after an amendment, change or addition of a notice or pictogram as contemplated in subsection (1), display such amended, changed or added notice or pictogram in the relevant public park or at the entrance thereto.

Offences and penalties

19. Any person who contravenes or fails to comply with a notice issued in terms of, or a condition imposed under, or any other provision of, this By-law, shall be guilty of an offence and if convicted shall be liable for a fine or imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

Repeal of legislation

20.(1) The City of Cape Town Municipality: Public Parks By-law P.N. 355/ 1990 is hereby repealed

(2) In the event of any other by-law of the City being inconsistent with this By-law, the provisions of this By-law shall prevail, to the extent of the inconsistency.

Short title

21. (1) This By-law is called the City of Cape Town: Public Parks By-law, 2009.

(2) In the event of any conflict between the English text of this By-law and the text thereof in another language, the English text shall prevail.