

**CITY OF CAPE TOWN**

**Draft AMENITIES BY-LAW**

## **ANNEXURE A**

### **AMENITIES BY-LAW, CITY OF CAPE TOWN**

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

#### **PREAMBLE**

WHEREAS section 43(c) of the Constitution vests the legislative authority in the Republic in respect of the local sphere of government in the Municipal Councils, as set out in section 156;

AND WHEREAS section 156(2) and (5) of the Constitution 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:

AND WHEREAS Part B of Schedule 5 to the Constitution lists local amenities as a local government matter to the extent set out for provinces in section 155(6) (a) and (7)

The Council of the City of Cape Town has resolved to pass the following By-law:-

**CITY OF CAPE TOWN  
PUBLIC AMENITIES BY-LAW, 2005**

**Definition**

**1** In this by-law, unless the context otherwise indicates -

**“constitution”** means the Constitution of the Republic of South Africa Act 108 of 1996;

**“council”** means the council of the municipality of the City of Cape Town, being a council as provided for in terms of section 18 of the Structures Act or any committee, any sub-council, any councillor of council, or any staff member acting under council’s delegated or sub-delegated authority;

**“municipality”** means the municipality of the City of Cape Town established in terms of section 12 of the Structures Act in Provincial Notice 479 dated 22 September 2000 and published in Provincial Gazette Extraordinary 5588 dated 22 September 2000;

**“notice”** means an official notice drawn up by the council in the official languages of the Province of the Western Cape and displayed by order of the council at every entrance to or at a conspicuous place at or on a public amenity and in which the council shall make known provisions and directions adopted by it in terms of this by-law;

**“public amenity”** means

- (a) any land, square, camping site, swimming-bath, public resort, recreation site, nature reserve, zoological, botanical or other garden, park or hiking trail owned by the Municipality, including any portion thereof and any facility or apparatus therein or thereon, but excluding any public road or street;
- (b) any building, structure, hall, room or office including any part thereof and any facility or apparatus therein, which is the property of, or is possessed, controlled or leased by the council and to which the general public has access, whether on payment of admission fees or not;
- (c) also any public amenity contemplated in paragraphs (a) and (b), if it is lawfully controlled and managed in terms of an agreement by a person other than the council.

**“staff member”** means a member of staff of the municipality;

**“Structures Act”** means the Local Government: Municipal Structures Act 117 of 1998 and

**“this By-law”** includes the Schedule thereto.

**Maximum number of persons.**

- 2 (1) The council may determine the maximum number of visitors who may be present at a specific time in or at a public amenity, provided that different numbers may so be determined for different public amenities.
- (2) The numbers contemplated in subsection (1) are made known by the council by means of a notice.

**Admission to and sojourn in a public amenity.**

- 3 (1) Admission to a public amenity is at own risk.
- (2) A public amenity is, subject to the provisions of these by-laws, open to the public on the times determined by the council, provided that different times may be determined in respect of different public amenities.
- (3) No person shall enter or leave a public amenity at a place other than that indicated for that purpose.
- (4) The conditions, times and places contemplated in subsections (1), (2) and (3) shall be made known by the council by means of a notice.

**Entrance fees.**

- 4 (1) Any person, other than a person referred to in subsection 4(3) shall on entering a public amenity pay the entrance fees determined from time to time by the council in accordance with the provisions of section 10 G(7)(ii) of the Local Government Transition Act, Act 209 of 1993 and such entrance fee shall be made known by means of a notice.
- (2) Different entrance fees may so be determined in respect of visitors of different ages.
- (3) The council may exempt certain persons or groups of persons from the payment of an entrance fee.

**Nuisances.**

- 5 No person shall perform or permit any of the following acts to be performed in or at a public amenity -
- (a) the use of language or the performance of any other act which disturbs the good order;
- (b) unless with the written council permission, the firing of firearms, airguns, air pistols, fireworks or the use of sling-shots or catapults;
- (c) the burning of any matter and/or the production of smoke unless specifically authorised by the council.

- (d) the causing of unpleasant or offensive smells;
- (e) the causing of disturbances by fighting, shouting, arguing, singing or by the playing of musical instruments, or by the use of loudspeakers, radio reception devices, television sets, or similar equipment.
- (f) the creation of a nuisance by begging for money, food, work, or the offering of services.

**Health matters.**

- 6 No person shall in or at a public amenity -
- (a) dump, drop or place any refuse, rubble, material or any object or thing or permit it to be done, except in a container provided for that purpose in or at the amenity;
  - (b) pollute or contaminate in any way the water in any bath, swimming-bath, dam, spruit, river or water-course;
  - (c) enter any bath or swimming-bath while suffering from an infectious or contagious disease or having an open wound on his body;
  - (d) perform any act that may detrimentally affect the health of any visitor to a public amenity.

**Structures.**

- 7 No person shall, without the written consent of the council having first been obtained erect or establish in or on a public amenity any structure, shelter or anything else, except the parking of a caravan or tent erected for camping purposes on a site specifically set aside therefor by notice.

**Liquor and food.**

- 8 Subject to the provisions of subsection (1) no person shall on, in or at a public amenity, contrary to a provision of a notice, cook or prepare food of any kind whatsoever, except at places set aside for such purposes by notice : provided that the preparation and cooking of food in or at a public amenity shall be done in a clean and sanitary manner so as not to give rise to excessive smoke or other nuisances or entail any danger to health : provided further that no live animals, poultry or fish may be killed or skinned on, in or at a public amenity.

**Animals.**

- 9 (1) No person shall bring any live animal, reptile, bird, fish or poultry into a public amenity except in accordance with the directions of the council, provided that different directions may be determined in respect of different public amenities 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.

**Use of public amenities.**

- 10 (1) No person shall in or at a public amenity without the consent of the council, or contrary to any conditions which the council may impose when granting such consent -
- (a) arrange, present or attend any public entertainment;
  - (b) collect money or any other goods for charity or any other purpose from the general public;
  - (c) display or distribute any pamphlet, placard, painting, book, handbill, sign, advertisement board or any other printed, written or painted work;
  - (d) arrange, hold, address or attend any meeting;
  - (e) arrange, hold or attend a public gathering or procession, exhibition or performance;
  - (f) conduct any trade, occupation or business;
  - (g) display, sell or rent or present for sale or rent any wares or articles;
  - (h) hold or attend an auction;
  - (i) tell fortunes for compensation,
- (2) For the purposes of this by-law "public gathering or procession" shall mean a procession or gathering of 12 or more persons, and which is not regulated by national or provincial legislation.
- (3) Consent contemplated in subsection (1), shall be refused only if the council is of opinion that -

- (a) it would 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 would be detrimental to the public or the users of or visitors to the public amenity; or
- (c) it would be detrimental to the public amenity concerned.

**Safety and order.**

- 11 (1) No person shall, subject to subsection (2), in or at a public amenity -
- (a) damage or disfigure anything within such amenity;
  - (b) use or try to use anything within such amenity for any purpose other than that for which it is designated or determined by notice;
  - (c) light a fire or prepare food, except at a place indicated for that purpose by notice;
  - (d) throw away any burning or smouldering object;
  - (e) throw or roll down any rock, stone or object from any mountains, koppie, slope or cliff;
  - (f) pull out, pick or damage any tree, plant, shrub, bulbs, vegetation or flower;
  - (g) behave in an improper, indecent, unruly, violent or unbecoming manner;
  - (h) cause a disturbance;
  - (i) wash, polish or repair a vehicle : provided that the foregoing provision of this paragraph shall not be applicable to the emergency repair of a vehicle;
  - (j) walk, stand, sit or lie in a flower bed;
  - (k) kill, hurt, follow, disturb, ill-treat or catch any animal, bird or fish or displace, disturb, destroy or remove any bird nests or eggs;
  - (l) walk, stand, sit or lie on grass contrary to the provision of a notice;

- (m) lie on a bench or seating-place or use it in such a manner that other users or potential users find it impossible to make use thereof;
  - (n) play or sit on playpark equipment, except if the person concerned is a child under the age of 13 years; or
  - (o) swim, walk or play, contrary to the provisions of a notice, in a fish-pond, fountain, stream or pond.
- (2) The council may by way of notice and subject to such conditions as the council deems necessary and mentioned in the notice authorise any of the actions contemplated in subsection (1).

#### **Water.**

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

#### **Laundry and crockery.**

- 13 No person may in or at a public amenity wash any crockery or laundry or hang out clothes, except at places indicated by notice for that purpose.

#### **Vehicles.**

- 14 (1) No persons may bring into a public amenity any truck, bus, motorcar, motor cycle, motor tricycle, bicycle or any other vehicle, craft or aeroplane, whether driven by mechanical, animal, natural or human power, except in accordance with the directions of the council, provided that different directions may be determined for different public amenities and for different such vehicles, craft or aeroplanes.
- (2) The council may determine the speed limit applicable in a public amenity, provided that different speed limits may be determined for different public amenities and for different such vehicles, craft or aeroplanes.
- (3) The directions contemplated in subsection (1) and the speed limit contemplated in subsection (2) shall be made known by the council by way of notice.

#### **Games.**

- 15 No game of any nature shall be played or conducted in or on a public amenity by any person or persons except at places set aside for that purpose by notice and in accordance with the directions of the council and which is made known by way of notice.



**Improper or indecent behaviour.**

- 16 No person may in or at a public amenity -
- (a) perform an act which is in the opinion of the council, indecent, or conduct himself/herself improperly by exposure of his/her person or otherwise, or make improper gestures or incite or urge someone to perform a disorderly or indecent act;
  - (b) use foul, lewd, dirty or indecent language;
  - (c) write, paint, draw or in any way make a filthy or immoral figure, writing, drawing or representation;
  - (d) defecate, urinate or undress, except in such building or on a premises intended or indicated by notice for such purpose or enter or use a toilet facility intended or indicated as such by notice for members of the opposite sex.

**Powers of a person in control.**

- 17 A person appointed by the council to control a public amenity may -
- (a) in a public amenity at any time enter upon any place, land, premises or building and conduct an investigation thereat in order to determine whether the provisions of these by-laws are complied with;
  - (b) for the better exercising of any power or the performance of any function or duty assigned or granted to him, take along an interpreter who, while acting under the lawful order of such a person, shall have the same powers, functions and duties as such person.

**Penalties.**

- 18 Any person who contravenes or fails to comply with a provision of this by-law, a notice issued in terms of this by-law, or a condition imposed under this by-law, irrespective of whether such contravention or failure has been declared as an offence in this by-law, shall be guilty of an offence.

**Amendment of legislation**

19 The legislation mentioned in Schedule 1 is hereby amended to the extent set out in that schedule.

**Short title and commencement**

20 This By-law is called the City of Cape Town: Public Amenities By-law, 2005 and takes effect on the date of publication.

H:\By-Law\Amenities By-Law.doc