

THEEWATERSKLOOF MUNICIPALITY

NATURE RESERVES BY-LAW

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Municipal Council of the Theewaterskloof Municipality, hereby enacts as follows:

PREAMBLE

The purpose of the by-law is to -

- (i) promote nature and environmental conservation in the area of jurisdiction of the Theewaterskloof Municipality; and
- (ii) provide for procedures, rules and practices for the use and management of nature reserves.

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1. INTERPRETATION

In this by-law, the English text prevails in the event of any conflict with the Afrikaans text, and unless the context indicates otherwise –

“authorized official”, means an official appointed in terms of section 6 of this by-law;

“Municipal Systems Act”, the Local Government: Municipal Systems Act, 2000 (Act No 32 van 2000), as amended;

“Municipality”, means the Theewaterskloof Municipality, and includes reference to any duly delegated and / or appointed officials and / or service providers in terms of service level agreements of the Theewaterskloof Municipality;

“premises”, means any portion of property situated within the area of jurisdiction of the Theewaterskloof Municipality or in a reserve of the Theewaterskloof Municipality, of which the outer boundaries are demarcated on a general plan or diagram, registered in accordance with the applicable legislation;

“person”, means and includes for purpose of this by-law, a natural person, who participate in activities in a reserve and / or make use of the amenities and / or facilities in a reserve;

“place”, means any portion of land, located within a reserve of the Theewaterskloof Municipality, of which the outer boundaries have not been formally demarcated, but which have visible boundaries that delimits and defines the area or as pointed out by an authorized official, and **“area”** has a similar meaning; and

“reserve”, the premises as designated in the following provincial notices -
(a) Victoria Park, Caledon - Provincial Notice No. 3301 of 16 July 1965;
(b) Greyton Nature Park – Provincial Notice No. 616 of 13 May 1977; and
(c) Villiersdorp Nature Reserve – Provincial Notice No. 303 of 14 March 1980.

2. APPLICABLE NATURE AND ENVIRONMENTAL REGULATIONS

- (1) The stipulations of the nature and environmental regulation promulgated in terms of Provincial Notice No. 955 of 29 August 1975, shall be *mutatis mutandis* applicable for the reserves, and any reference in such regulations to –
 - (a) a nature reserve , means a reference to a reserve; or
 - (b) the Director of the Department, means a reference to the Municipality.
- (2) No one may enter a reserve without the permission of the Municipality, and every person who enter a reserve shall be in possession of a permit issued by the Municipality, authorizing him or her to enter such a reserve.

3. FEES AND TARIFFS

The Municipality shall annually determine the fees and tariffs applicable for access to reserves or the use of any amenity, service, facility, entertainment, show or performance presented or provided or rendered by or on behalf of the Municipality, at or in a reserve.

4. CAMPING AND PICKNICKING

- (1) No one may camp or picnic in a reserve, except at such places and / or premises designated and allocated to a person and / or persons, and then only subject to the stipulations of this by-law.
- (2) The person or persons to whom a place and / or premises have been allocated in terms of subsection 4(1) of this by-law, shall be responsible for keeping the allocated area clean and tidy.

5. PROHIBITED BEHAVIOUR

- (1) No one may in a reserve -
 - (a) unlawfully enter any place or area, including any planted area, flower bed or lawn;
 - (b) sell anything or offer anything for sale, without obtaining the prior written approval of the Municipality;
 - (c) unreasonably refuse or fail to provide his or her personal particulars and address, when requested by an authorized official to provide such information;
 - (d) leave any vehicle unlocked and unattended;
 - (e) be in possession of any weapon, trap, explosive or poison, or remove any flora, fauna, soil, natural material, wood, bird nests, objects of historical, archaeological or scientific value, or any other object or asset of the Municipality;
 - (f) damage, disturb or destroy any flora or bird nests or disturb, hunt, chase, injure or kill any fauna;
 - (g) damage, misuse, destroy or deface in any way, any natural or other object in a reserve, or any asset of the Municipality;
 - (h) without the approval of the Municipality light any open fires, except at such places specifically designated for it;
 - (i) fail to extinguish any fire, or when a fire cannot be extinguished, fail to inform an authorized official about the locality of such a fire;
 - (j) dispose of any burning match, burning cigarette or a similar burning tobacco product, burning fire lighter or any combustible material, or perform any other irresponsible action that may cause a fire;

- (k) unlawfully drive any motor vehicle, motor cycle, three or four wheel quad bike, scooter, electric motor vehicle or any other similar vehicle on routes and places, where vehicular traffic are forbidden;
 - (l) dispose of or leave any trash, waste or any other objects at any place, except in identified waste containers specifically provided for waste disposal;
 - (m) throw, place or dispose of any item, medium or object in water, that may directly or indirectly cause any pollution;
 - (n) allow any dog, other domestic animals, livestock, donkeys, horses, mules or any other type of animal to enter a reserve, and where such animals are allowed, fail to keep such animals on a leash or any similar type of restraint;
 - (o) damage or remove or climb over any fence or enclosure, or a similar structure or a barricade;
 - (p) walk in the veld off recognised paths, tracks and trails, or in any place or on any road or route, where it is prohibited;
 - (q) create a disturbance, nuisance, impediment or hindrance, which can be offensive to other persons;
 - (r) ignore an instruction issued by an authorized official;
 - (s) restrict or obstruct an authorized official in the execution of his or her powers or duties in terms of this by-law; or
 - (t) undertake any action or activity, that is an offence in terms of any legislation regulating nature and environmental activities and areas.
- (2) A person who contravenes any of the provisions in subsection 5(1) of this by-law is guilty of an offence.

6. AUTHORIZED OFFICIALS

- (1) The Municipality may appoint officials as may be required, for the supervision over and the control of nature reserves.
- (2) Every authorized official appointed in terms of subsection 6(1) of this by-law, shall be provided by the Municipality with a certificate of appointment, which he or she shall provide to any person requesting such proof of appointment.

(3) An authorized official may -

- (a) when reasonable grounds exist that a person has contravened any provisions of this by-law, or is in the process to contravene such provisions, request the personal particulars of such a person, and when such person is in possession of any apparatus, equipment, nets or tools used or that may be used for the contravention concerned, confiscate such apparatus, equipment, nets or tools;
- (b) request a person to provide the required permit in terms of this by-law for an activity, undertaken by such person in a reserve;
- (c) request any information from a person who is entering a reserve, which he or she consider to be necessary, to determine whether the provisions of this by-law have been complied with or not.

7. APPEALS

A person whose rights are affected by a decision of the Municipality in terms of any delegated powers, may appeal against such a decision in terms of Section 62 of the Municipal Systems Act, by giving written notice of the appeal against such a decision and the reasons for the appeal to the Municipal Manager, within twenty one (21) days of the date of the notification of the decision.

8. EXEMPTION FROM STIPULATIONS

Notwithstanding the stipulations of this by-law, the Municipality may exempt any person or groups of persons from any of the stipulations of this by-law.

9. OFFENCES AND PENALTIES

Any person who contravenes or fails to comply with the provisions of this by-law, or fails to comply with a notice served in terms of this by-law, or fails to comply to an instruction issued by an authorized officer or posted on a notice board, is guilty of an offence and is liable on conviction, for –

- (a) a fine or imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment;
- (b) in the case of a successive or continuing offence, to an additional fine or additional period of imprisonment, or such additional imprisonment without the option of a fine, or to both such additional fine and such additional imprisonment, for every day such offence continues; and
- (c) any further amount as an order of court for costs, equal to any costs and / or expenses, deemed by the Court to have been incurred by the Municipality, as a result of such contraventions.

10. CONFLICT BETWEEN LEGISLATION

When any stipulation of this by-law, is in conflict with national and provincial legislation or regulations, the national and provincial legislation or regulations shall prevail.

11. REPEAL OF BY-LAWS

(1) The provisions of any by-laws previously promulgated by the Municipality, or by any of the disestablished municipalities now incorporated in the Municipality, are hereby repealed as far as they relate to matters provided for in this by-law.

(2) The following by-laws of the Theewaterskloof Municipality are hereby specifically repealed –

Date published	Name of by-law	As a whole or partially
PG 6234 dated 8 March 2005	Nature Reserves By-law	As a whole
PG 6234 dated 8 March 2005	Advisory Boards for Nature Reserves By-law	As a whole

12. SHORT TITLE

This by-law shall be called the Nature Reserves By-law of the Theewaterskloof Municipality.

13. OPERATIVE DATE

This by-law shall take effect on the date of publication.

MUNISIPALITEIT VAN THEEWATERSKLOOF

VERORDENING INSAKE NATUURRESERVATE

Kragtens artikel 156 van die Grondwet van die Republiek van Suid-Afrika, 1996 verorden die Munisipale Raad van die Munisipaliteit van Theewaterskloof as volg:

AANHEF

Die doel van die verordening is om –

- i) natuur- en omgewingsbewaring te bevorder in die regsgebied van die Munisipaliteit van Theewaterskloof; en
- ii) om voorsiening te maak vir prosedures, reëls en praktyke om die gebruik en bestuur van natuurreservate te reguleer.

INHOUDSOPGAWE

1. Interpretasie
2. Natuur- en omgewingsbewaringregulasies van toepassing
3. Fooie en tariewe
4. Kampering en piekniek
5. Verbode gedrag
6. Gemagtigde beamptes
7. Appèlle
8. Vrystelling van bepalings
9. Strafbepalings
10. Teenstrydighede met ander wetgewing
11. Herroeping van verordeninge
12. Kort titel
13. Inwerkingtreding

1. INTERPRETASIE

In hierdie verordening, geld die Engelse teks in die geval van enige teenstrydigheid met die Afrikaanse teks, en tensy die konteks anders aandui, beteken -

“gemagtigde beampte”, `n beampte aangestel in terme van artikel 6 van hierdie verordening;

“Munisipale Stelselwet”, die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No 32 van 2000), soos gewysig;

“Munisipaliteit”, die Munisipaliteit van Theewaterskloof, wat insluit enige verwysing na behoorlike gemagtigde en / of aangestelde beamptes en / of diensverskaffers in terme van diensleweringsooreenkomste van die Munisipaliteit van Theewaterskloof;

“**perseel**”, enige gedeelte grond, geleë binne die regsgebied van die Munisipaliteit van Theewaterskloof of in ‘n reservaat van die Munisipaliteit van Theewaterskloof, waarvan die buitegrense afgebaken is op ‘n algemene plan of ‘n diagram, wat ingevolge die toepaslike wetgewing geregistreer is;

“**persoon**”, vir doeleindes van hierdie verordening, ‘n natuurlike persoon wat in ‘n reservaat is en / of aktiwiteite beoefen in ‘n reservaat en / of gebruik maak van die geriewe en / of fasiliteite wat in ‘n reservaat aangetref word;

“**plek**”, wat die begrip “**area**” insluit, enige gedeelte grond, wat insluit enige area geleë binne in ‘n reservaat van die Munisipaliteit van Theewaterskloof, waarvan die buitegrense nie formeel afgebaken is nie, maar wel uitgewys is deur ‘n gemagtigde beampte of op een of ander wyse sigbaar aangetoon of afgebaken word; en

“**reservaat**”, die persele soos omskryf in die volgende provinsiale kennisgewings -
 (a) Victoria Park, Caledon - Provinsiale Kennisgewing No. 3301 van 16 Julie 1965;
 (b) Greyton Natuurpark – Provinsiale Kennisgewing No. 616 van 13 Mei 1977; en
 (c) Villiersdorp Natuurreservaat – Provinsiale Kennisgewing No. 303 van 14 Maart 1980.

2. NATUUR- EN OMGEWINGSBEWARINGREGULASIES VAN TOEPASSING

- (1) Die bepalings van die natuur – en omgewingsbewarings regulasies soos afgekondig ingevolge Provinsiale Kennisgewing No. 955 van 29 Augustus 1975, is *mutatis mutandis* van toepassing op die reservate, en enige verwysing in sodanige regulasies na –
- (a) ‘n natuurreservaat, word vertolk as ‘n verwysing na die reservate; of
 - (b) die Direkteur of die Departement word vertolk as ‘n verwysing na die Munisipaliteit
- (2) Niemand mag ‘n reservaat sonder die toestemming van die Munisipaliteit binnegaan nie, en elke persoon wat ‘n reservaat binnegaan, moet in besit wees van 'n permit deur die Munisipaliteit uitgereik, wat hom of haar magtig om sodanige reservaat binne te gaan.

3. FOOIE EN TARIEWE

Die Munisipaliteit stel jaarliks die fooie en tariewe vas wat betaalbaar sal wees, ten opsigte van die gebruik van reservate of die toegang tot enige gerief, diens, fasiliteit, vermaaklikheid, vertoning of uitvoering wat deur die Munisipaliteit, of namens die Munisipaliteit, by of in ‘n reservaat ingestel of voorsien of gelewer word.

4. KAMPERING EN PIEKNIEK

- (1) Niemand mag in 'n reservaat kampeer of piekniek hou nie, behalwe ooreenkomstig die bepalings van hierdie verordening, en dan slegs op sodanige plekke en / of persele soos deur die Munisipaliteit aan sodanige persoon en / of persone toegewys.
- (2) Die persoon of persone aan wie 'n plek en / of perseel ingevolge subartikel 4(1) van hierdie verordening toegewys word, is verantwoordelik vir die netheid en sindelikeheid van sodanige plek en / of perseel.

5. VERBODE GEDRAG

- (1) Niemand mag in 'n reservaat –
 - (a) enige plek of area, wat insluit enige beplante area of blombedding of grasperk, wederregtelik betree nie;
 - (b) sonder die vooraf skriftelike toestemming van die Munisipaliteit, enige iets verkoop of te koop aanbied nie;
 - (c) sonder grondige rede weier of versuim om sy of haar persoonlike besonderhede en adres op aanvraag, aan 'n gemagtigde beampte te verstrek nie;
 - (d) enige motorvoertuig ongesluit en sonder toesig laat nie;
 - (e) in besit wees van enige wapen, strik, plofbare stof of gif, of enige flora, fauna, grond, natuurlike materiaal, hout, voëlneeste, voorwerpe van historiese, argeologiese, of wetenskaplike belang, of enige ander voorwerp of bate wat aan die Munisipaliteit behoort, verwyder nie;
 - (f) enige flora of voëlneeste beskadig, versteur of vernietig nie, of enige fauna versteur, jag, jaag, beseer of doodmaak nie;
 - (g) enige natuurlike of ander voorwerp in 'n reservaat of enige bate wat aan die Munisipaliteit behoort, op enige wyse beskadig, misbruik, vernietig of ontsier nie;
 - (h) sonder die toestemming van die Munisipaliteit enige oop vure maak nie, behalwe op sodanige plekke spesifiek daarvoor voorsien;
 - (i) versuim om enige brand te blus, of indien 'n brand nie geblus kan word nie, versuim om die ligging daarvan aan 'n gemagtigde beampte te rapporteer;

- (j) enige brandende vuurhoutjie, brandende sigaret of 'n ander soortgelyke brandende tabakprodukt of enige ander brandende aansteker of enige brandbare materiaal neergooi of enige ander onverantwoordelike handeling verrig, wat 'n brand kan veroorsaak;
 - (k) enige motorvoertuig, motorfiets, drie- of vierwielmotorfiets, bromponie, elektriese motorvoertuig ongemagtig op roetes en plekke waar voertuigverkeer verbied word, bestuur nie;
 - (l) enige rommel, afval of ander voorwerpe op enige plek stort of agterlaat nie, behalwe in geïdentifiseerde afvalhouers spesifiek daarvoor voorsien;
 - (m) enige item, middel of voorwerp in water gooi, plaas of stort nie, wat enige besoedeling direk of indirek tot gevolg kan hê;
 - (n) toelaat dat enige hond, ander huisdier, lewende hawe, donkies, perde, muile of enige ander tipe dier 'n reservaat binnegaan, en waar sodanige diere toegelaat word, nalaat om toe te sien dat sodanige dier aan 'n leiband of enige soortgelyke tipe harnas is;
 - (o) enige heinings of omheinings, of soortgelyke strukture of versperrings, beskadig of verwyder of daaroor klim nie;
 - (p) in die veld weg van erkende paaie, voetpaaie of spore loop, of op enige plek of op enige pad of roete loop, waar dit verbied word;
 - (q) 'n steurnis, oorlas, belemmering of hindernis, wat aanstoot kan gee vir ander persone, veroorsaak nie;
 - (r) 'n opdrag uitgereik deur 'n gemagtigde beampte verontagsaam nie;
 - (s) 'n gemagtige beampte hinder of belemmer in die uitvoering van enige van sy of haar magte of pligte ingevolge hierdie verordening nie; of
 - (t) enige optrede of aktiwiteit onderneem, wat 'n oortreding in terme van enige wetgewing wat natuur- en omgewingsbewaring aktiwiteite en gebiede reguleer sal wees.
- (2) 'n Persoon wat hom of haar skuldig maak aan die oortreding van enige van die bepalings in subartikel 5(1) van hierdie verordening, is skuldig aan 'n oortreding.

6. GEMAGTIGDE BEAMPTES

- (1) Die Munisipaliteit kan sodanige beamptes aanstel as wat nodig geag word, vir die toesig oor en die beheer van reservate.

- (2) Elke gemagtigde beampte wat ingevolge subartikel 6(1) van hierdie verordening aangestel word, moet deur die Munisipaliteit voorsien word van 'n sertifikaat van aanstelling en sodanige beampte moet op versoek van enige persoon, sy of haar sertifikaat van aanstelling toon.
- (3) 'n Gemagtigde beampte mag –
- (a) indien hy of sy op redelike gronde vermoed dat 'n persoon enige bepalings van hierdie verordening verbreek het of besig is om dit te verbreek, versoek dat sodanige persoon sy of haar persoonlike besonderhede moet verskaf en indien sodanige persoon enige appaarte, toerusting, nette of gereedskap in sy of haar besit het, wat moontlik gebruik was of gebruik kan word om die betrokke oortreding te begaan, dit as sodanig konfiskeer;
 - (b) versoek dat enige persoon wat besig is met 'n handeling waarvoor 'n permit benodig word in terme van hierdie verordening, sodanige permit toon; en
 - (c) enige inligting versoek van 'n persoon wat 'n reservaat binnegaan of aldaar teenwoordig is, wat deur die gemagtigde beampte nodig geag te wees om vas te stel of die bepalings van hierdie verordening nagekom word.

7. APPÈLLE

'n Persoon wie verontreg voel oor 'n besluit geneem deur die Munisipaliteit, ingevolge enige gedelegeerde magte, mag in terme van artikel 62 van die Munisipale Stelselwet, teen sodanige besluit appèlleer, deur binne een-en-twintig (21) dae vanaf die datum van kennisgewing van die besluit, skriftelike kennis aan die Munisipale Bestuurder te gee van die appèl, en redes vir die appèl te verstrek.

8. VRYSTELLING VAN BEPALINGS

Nieteenstaande die bepalings van hierdie verordening, mag die Munisipaliteit enige persoon of groep van persone vrystel van enige of al die bepalings van hierdie verordening.

9. STRAFBEPALINGS

'n Persoon wat enige bepaling van hierdie verordening oortree, of versuim om daaraan te voldoen of versuim om te voldoen aan 'n kennisgewing uitgereik ingevolge hierdie verordening of 'n instruksie uitgereik deur 'n gemagtigde beampte of aangebring op 'n kennisgewingbord, begaan 'n oortreding en kan by skuldigbevinding -

- (a) 'n boete of gevangenisstraf opgelê word, of gevangenisstraf sonder die keuse van 'n boete, of beide sodanige boete en sodanige gevangenisstraf opgelê word;
- (b) in die geval van 'n voortgesette misdryf, 'n bykomende boete of bykomende tydperk van gevangenisstraf of sodanige bykomende gevangenisstraf sonder die opsie van 'n boete of beide sodanige bykomende boete en gevangenisstraf, vir elke dag waarop sodanige misdryf voortduur, opgelê word; en
- (c) 'n verdere bedrag as kostebevel opgelê word, gelykstaande aan enige kostes en / of uitgawes wat die Hof bevind deur die Munisipaliteit aangaan was, as gevolg van sodanige oortreding.

10. TEENSTRYDIGHEDE MET ANDER WETGEWING

In die geval van teenstrydighede tussen enige bepaling van hierdie verordening, en nasionale en provinsiale wetgewing en regulasies, sal sodanige nasionale en provinsiale wetgewing en regulasies, voorrang geniet.

11. HERROEPING VAN VERORDENINGE

- (1) Die bepalings van enige ander verordeninge voorheen uitgevaardig deur die Munisipaliteit of deur enige van die afgeskafte munisipaliteite wat nou in die Munisipaliteit geïnkorporeer is, word hiermee herroep in soverre dit betrekking het op aangeleenthede waarvoor in hierdie verordening voorsiening gemaak word.
- (2) Die volgende verordeninge van die Munisipaliteit van Theewaterskloof word hiermee spesifiek herroep -

Datum gepubliseer	Naam van verordening	In die geheel of gedeeltelik
PK 6234 gedateer 8 Maart 2005	Verordening insake Natuurreserve	In die geheel
PK 6234 gedateer 8 Maart 2005	Verordening insake die adviesraad vir die natuurreserve	In die geheel

12. KORT TITEL

Hierdie verordening sal bekend staan as die Verordening insake Natuurreserve van die Munisipaliteit van Theewaterskloof.

13. INWERKINGTREDING

Hierdie verordening tree op datum van publikasie daarvan in werking.

