

THEEWATERSKLOOF MUNICIPALITY

PUBLIC AMENITIES 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 this by-law is to provide for measures to control the access and the use of public amenities, which are owned and / or controlled by the Theewaterskloof Municipality.

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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 –

“**animal**”, means any equine, bovine, donkey, mule, camel, sheep, goat, pig, fowl or other bird, poultry, ostrich, hare, rabbit, dog, cat or other domestic animal or bird, or a wild animal or reptile which is in captivity or under the control of someone, or insects such as bees, kept and controlled by someone;

“**authorized official**”, means any peace officer authorized in terms of section 334 of the Criminal Procedures Act, 1977 (Act No 51 of 1977), as amended, or any employee of the Theewaterskloof Municipality, who is authorized by the Theewaterskloof Municipality to enforce the provisions of this by-law;

“**camp**” or “**camping**”, means to utilize a site for camping, by picnicking thereon or by occupying it with a caravan or vehicle adapted for camping, or a tent or similar camping accessories, and to use such caravan, vehicle, tent or camping accessories, for temporary habitation or sleeping or as a shelter or protection against the weather;

“**camping area**”, means a property owned and formally designated by the Theewaterskloof Municipality as a public picnic area, a camping area or a caravan park, or a similar facility approved by the Theewaterskloof Municipality on private land;

“**camping permit**”, means a documented proof of permission granted, issued by the Theewaterskloof Municipality for the purposes contemplated in this by-law, or an official receipt issued by the Theewaterskloof Municipality against payment of the prescribed camping fees;

“**camping site**”, means any part of a camping area or a caravan park, demarcated and assigned for the purpose of camping thereon;

“**caravan**”, means any trailer or vehicle permanently fitted out for use by persons for living and sleeping purposes;

“**erect**”, in relation to a notice board, means to construct, affix or erect a notice board;

“**garden**”, means any piece of land under the control of the Theewaterskloof Municipality, which is maintained as a garden for use by the general public;

“**life guard**”, means a person employed by the Theewaterskloof Municipality in the capacity of a life guard, or any member of the South African Beach Life Savers Association, or any member of affiliated life guard clubs or any association of life guards;

“**mobile home**”, means a movable or mobile factory assembled structure for residential inhabitation, intended and erected for use as a dwelling, which have the required ability to be connected to municipal infrastructure for water, sanitation and electricity;

"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;

"notice board", means any sign, poster, board, electronic apparatus or other device, which have been specifically erected or which are displayed, to convey any commanding instruction or symbol;

"person", means and includes for purpose of this by-law, a natural person or a juristic person or any industrial or commercial undertaking or an organ of state;

"public amenity", means –

- (a) any portion of public land or place, commonage, square, camping area, caravan park, swimming pool, swimming area, sports ground, sport stadium, public open space, public resort, recreation site, land adjacent to a river or a dam; the Victoria Park Nature Reserve; the Greyton Nature Reserve; the Villiersdorp Nature Reserve, proclaimed nature area or nature reserve or management area of another organ of state, zoo, game reserve, botanical garden or wild flower garden or any other public garden or park, or hiking trail, including any portion thereof and any facility or amenity at the public place concerned, which are the property of or are under control of or are leased by the Theewaterskloof Municipality, and to which the general public has access, whether on payment of admission fees or not, but excludes a public road or a public street;
- (b) any building, structure, hall, centre, complex or office, including any part thereof or any facility or apparatus therein, which is the property of, or is possessed, controlled or leased by the Theewaterskloof Municipality and to which the general public has access, whether on payment of admission fees or not; and
- (c) any public amenity as contemplated in paragraphs (a) and (b), which is lawfully controlled or managed in terms of an agreement between a private person or an institution and the Theewaterskloof Municipality on behalf of the Theewaterskloof Municipality;

"public gathering or procession", means a procession or gathering of more than thirty (30) members of the general public;

"public place", means any premises or property or land, under the control of the Theewaterskloof Municipality, to which the public have access, and includes, but are not restricted to any square, building, park, recreational area, sports grounds, open space, nature reserve, municipal street, alley or road reserve, public road, parking area, municipal commonage, unused or used or build-up or vacant municipal land, or a cemetery;

"under the influence of liquor or drugs", means a person, who as a consequence of the abuse of liquor and / or drugs, to such an extent lost control over his or her mental or physical ability, or both, that he or she is no longer able to maintain or behave himself or herself, or is not capable of performing any action, without endangering himself or herself or other persons, or is misbehaving in such a way that it is infringing on the constitutional rights of other persons; and

“**vehicle**”, means any vehicle powered by mechanical, electrical, animal, natural or human power, and includes, but are not restricted to, any bicycle, motorcycle, car, pick-up, truck, rebuild vehicle, trailer, wagon, boat, craft or aircraft, but does not include a wheel chair or pram used solely for the conveyance of an invalid or a child, propelled or pushed by hand.

CHAPTER 1: GENERAL ARRANGEMENTS FOR PUBLIC AMENITIES

2. RESTRICTION OF VISITORS AND VEHICLES

The Municipality may –

- (a) determine the maximum number of persons or vehicles that may be allowed entrance to or may be present at a public amenity at any given time; and
- (b) determine the different classes of vehicles that may be allowed entrance to or may be present at the various public amenities at any given time.

3. RIGHT OF ACCESS AND THE RESTRICTION OF ACTIVITIES

- (1) A public amenity is open for use by the general public, at the times and on the dates, and subject to the conditions as may be determined by the Municipality.
- (2) The Municipality may determine the activities or vehicles or equipment that are allowable or not, in, on or at a public amenity, and such restrictions may include, but are not limited to –
 - (a) restrictions on the use of vehicles in a public amenity;
 - (b) restrictions on the access for different classes of vehicles to a public amenity; and
 - (c) restrictions on the flying of radio controlled model aircraft and kite flying, wind surfing, kite surfing and other water sport activities, or the use of boats or other jet propelled craft on or at any dam or river.
- (3) The Municipality may grant to any person or persons, who apply for such consent, an exclusive use of a public amenity during such hours and / or periods, and for such activities as required, which may include the following, but are not limited to, games, public meetings, fetes, shows, weddings or any other function or entertainment.
- (4) The Municipality may for purpose of the maintenance of a public amenity, development activities, or for security, safety or public health, close a public amenity temporarily or permanently, or suspend any activities at such a public amenity temporarily or permanently.

- (5) Where a person has committed an offence in terms of this by-law at a public amenity, an authorized official may order such person to leave the public amenity concerned.
- (6) Where an authorized official on reasonable grounds suspects, that a person who wish to enter a public amenity, intends to commit an offence in terms of this by-law, or any other statutory stipulation or municipal by-law, he or she may refuse entry to such public amenity to such a person.

4. ENTRANCE FEES AND OTHER PAYMENTS

- (1) The Municipality may determine and levy different tariffs and fees or any other payments, for access to and the use of public amenities, on condition that the Municipality may differentiate between persons of different ages, groups of persons or users, or different classes and categories of vehicles, and may grant concessions in respect of fees and tariffs payable.
- (2) Entrance fees for public amenities are payable at the entrance to a public amenity, except where it is otherwise indicated on a notice board.
- (3) Entrance fees for the use of public amenities are payable in respect of each day of use or portion thereof, as specified for each individual public amenity.
- (4) Daily entrance fees for public amenities are not refundable, but entrance fees paid in advance on booking, may be refunded on written request with the prior cancellation of such a booking.
- (5) An authorized official may request a user of a public amenity to provide proof, that the required entrance fee has been paid.

5. NOTICE BOARDS

- (1) The Municipality may erect a notice board at the entrance to or in the immediate vicinity of a public amenity, on which any or all of the following information may be displayed –
 - (a) the times and dates that a public amenity is open for use;
 - (b) the conditions for access to a public amenity;
 - (c) the activities allowed and / or prohibited at a public amenity;
 - (d) the entrance fees payable for a public amenity; and
 - (e) a notice stating that a public amenity has been closed for public use, as contemplated in subsection 3(4) of this by-law.

- (2) No person, except an authorized official or any other person authorized by the Municipality to fulfil such a task, may alter the contents of a notice board or otherwise remove a notice board.
- (3) A notice posted or erected by Municipality in terms of subsection 5(1) of this by-law, may contain a graphic representation to convey a meaning.

6. WRITTEN CONSENT REQUIRED FOR CERTAIN ACTIVITIES

- (1) No person may, subject to the provisions of the By-law relating to the Holding of Events of the Theewaterskloof Municipality, and without the prior written consent of the Municipality, arrange any public entertainment, or hold on or at or in a public amenity, a public meeting, a public gathering, a procession, an exhibition, a performance, an auction or a wedding.
- (2) No person may without the prior written consent of the Municipality on or at or in a public amenity –
 - (a) solicit or collect money or any other goods from the general public, for charity or any other purpose;
 - (b) display for sale paintings, woodcarvings, wire, metal or any other artwork, books, woodwork, wood furniture or painted work, or distribute pamphlets, advertising material, placards, handbills, written or printed work; or
 - (c) engage in any form of trade, commerce or business.
- (3) No person may on or at or in a public amenity undertake or perform any activity in contravention with the instructions and restrictions on a notice board, as contemplated in subsection 5(1) of this by-law or which is contrary to the stipulations and conditions of a written consent.
- (4) No person may on or at or in a public amenity, without the prior written consent of the Municipality, erect or construct any temporary fence, structure, shelter or anything else, and a person who has obtained such consent may only erect or construct such temporary fence, structure, shelter or anything else in the designated area specifically set aside for the purpose.
- (5) No person may at or in or on a public amenity, without the prior written consent of the Municipality, bring into or have in his or her possession any type of firearm, airgun, air pistol, crossbow, bow or other weapon, except an authorized official or a member of the South African Police Services.
- (6) A person who wishes to obtain the consent of the Municipality as contemplated in subsections 6(1), 6(2), 6(4) and 6(5) of this by-law, shall complete and submit an application on the prescribed form, and the Municipality shall consider and in writing grant the consent applied for, subject to any such conditions the Municipality deems necessary, the payment of the prescribed fees and tariffs, and the obtaining of the required permits and / or

licenses for the preparation and selling of food, or in writing refuse an application.

- (7) A person who has been granted a consent in terms of subsections 6(1), 6(2), 6(4), 6(5) or 6(6) of this by-law, shall at all times keep the consent document in his or her possession, while exercising the approved consent on or at or in a public amenity, and shall present the consent document when requested by an authorized official.

7. ISSUING OF SPECIAL PERMITS

- (1) The Municipality may, notwithstanding the provisions of this by-law, on application and subject to any such conditions the Municipality may impose, issue a special permit –
- (a) to groups of people to use public amenities free of charge; or
 - (b) to a person or persons undertaking scientific, educational or similar research purposes to use public amenities free of charge.
- (2) The holder of a special permit issued in terms of subsection 7(1) of this by-law, may subject to any conditions imposed –
- (a) when in possession of a valid hunting licence and / or has the required consent of the applicable responsible authority, may hunt, catch or remove fauna under the supervision and control of an authorized official, on or at or in a public amenity;
 - (b) with the required consent of the applicable responsible authority, may pick, collect or remove flora under the supervision and control of an authorized official, at or in or on a public amenity;
 - (c) on or at or in a public amenity under the supervision and control of an authorized official, remove anything of historical or scientific importance;
 - (d) on or at or in a public amenity have in his or her possession or use diving equipment, weapons, explosives, or a trap, poison, hammer, saw, knife or a gardening tool;
 - (e) on or at or in a public amenity only remove any picked flora or a carcass of a hunted animal, when an authorized official has –
 - (i) inspected such flora or carcass;
 - (ii) when necessary or desirable, measured the dimensions or mass or has taken a sample of such flora or carcass; and
 - (iii) in writing authorized such permit holder to remove such flora or carcass;or
 - (f) on or at or in a public amenity excavate soil, sand or stone, or remove organic or non-organic material.

- (3) The holder of a special permit shall on arrival at the public amenity for which a permit was issued, show the permit concerned to an authorized official, before entering such public amenity or commencing with any activity authorized by the special permit.

8. ANIMALS

- (1) No person may in contravention of any prohibition displayed on a notice board, bring any animal into a public amenity, except for a guide dog accompanying a blind or disabled person, or a dog or any other animal used by an authorized official or a member of the South African Police Services, in the execution of their duties.
- (2) A person who is permitted to bring an animal on or at or in a public amenity, shall always have direct control over such animal by means of a leash or other restraining device, and may not bath or allow such animal to bath in or enter any dam, fountain, pool, river or any other natural water source, or any water provided for ornamental or swimming purposes.
- (3) Any animal found on or at or in a public amenity, which is not under the direct control of a person, may be impounded by the Municipality in terms of the provisions of the Impoundment of Animals By-law of the Theewaterskloof Municipality.

9. PROHIBITED BEHAVIOUR

- (1) No person who is under the influence of liquor or drugs may enter or be present in a public amenity, or may take any liquor or drugs into a public amenity for the consumption thereof.
- (2) No one may on or at or in a public amenity –
 - (a) break, damage, destroy, tamper with, misuse or disfigure anything, or fail to observe any instructions by an authorized official in regard therewith;
 - (b) remove, throw or roll a rock, stone or object;
 - (c) remove, pick, cut down, break, saw, cut or damage any flora, or have such flora in his or her possession, except when authorized thereto by means of a special permit;
 - (d) walk, stand, sit or recline in a flowerbed, or sit or recline in any place or area or on any object or grass, in contravention with a notice;
 - (e) write, paint or draw graffiti or a symbol on a structure, building, rock, tree or path;
 - (f) excavate soil, sand or stone, or remove organic or non-organic material, except when authorized thereto by a special permit;

- (g) interfere with the flow of water, or divert a stream or drain a wetland;
- (h) deface anything by pasting or affixing handbills, placards, notices, advertisement or anything else thereon;
- (i) wash or polish a vehicle, or repair a vehicle, except for emergency repairs to a vehicle;
- (j) burn waste, or dispose of any waste, garden waste or building rubble, except in containers provided therefore;
- (k) wash crockery or laundry or hang out clothes, except at places designated by a notice for such purpose;
- (l) use or endeavour to use anything provided on or at or in a public amenity for a purpose other than that for which it was intended or designated by a notice;
- (m) discard a burning or smouldering object, or throw it out of a vehicle;
- (n) behave or reveal himself or herself in an improper, indecent or unbecoming manner;
- (o) defecate, urinate or undress in public;
- (p) lie on benches or seating provided, or use it in such a manner that other users or potential users are restricted or discouraged to make use thereof;
- (q) play or sit on playground equipment, except for a child under the age of thirteen years;
- (r) swim, walk or play in a fish-pond, fountain, dam, river, swimming pool, artificial feature or pond, in contravention with a notice or where applicable an instruction of a life guard prohibiting such action;
- (s) use any swimming pool or water facility, with an open body wound;
- (t) perform any act that may detrimentally affect the health of any other person;
- (u) enter or use a toilet facility or an ablution facility designated by a notice for use by members of the opposite sex;
- (v) overnight without authorization;
- (w) hunt, injure, disturb, feed, kill, follow, disturb, tease, annoy, snare, trap or catch any animal, or move, disturb, destroy or remove a bird nest or eggs, or skin or gut an animal, except when authorized to do so in terms of a special permit;

- (x) discharge a firearm, airgun, air pistol, crossbow, bow or slingshot, except an authorized official or a member of the South African Police Services in the execution of their duties or when special consent has been granted;
 - (y) in any way whatsoever prejudice the safety, convenience or rights of other persons, or by playing any games that may cause annoyance or endanger public safety or the property of other persons; or
 - (z) light a fire in any place, except a place specifically designated for the lighting of open fires.
- (3) No one may enter or leave a public amenity other than by way of the official entry and exit point, or without having paid the required entrance fees.
 - (4) No one may release or introduce any wild animal, fish, bird or flora on or at or in a public amenity, except an authorized official in the execution of his or her duties.
 - (5) No one may on or at or in a public amenity, swim or angle, when such activities are prohibited by a notice board, as contemplated in subsection 5(1) of this by-law.

10. VEHICLES

- (1) No one may bring any vehicle on or at or in a public amenity, except in accordance with the specific conditions applicable for a specific public amenity, subject thereto that an authorized official or a member of the South African Police Services shall not be restricted hereby in the execution of their duties.
- (2) Where a person is permitted to use a vehicle in a public amenity, such vehicle may only be used on constructed roads and at the speed limit indicated for such public amenity.
- (3) The stipulations of subsections 10(1) and 10(2) of this by-law shall not be applicable for an emergency vehicle used in an emergency situation.

11. CAMPING SITES AND CARAVAN PARKS

- (1) No person may camp on any property belonging to or under the control of the Municipality, except on a designated camping site within the boundaries of a camping area or a caravan park.
- (2) No person may in any period of twelve (12) months, camp on the same camping site in a camping area or a caravan park, for a period exceeding three (3) months, without the written consent of the Municipality.

- (3) Notwithstanding the stipulations of subsection 11(2) of this by-law, the Municipality may allocate and reserve ten (10) per cent or any larger percentage as approved by the Municipality, of a caravan park for semi-permanent occupation in terms of specific conditions for caravans and / or mobile homes.
- (4) The occupant of a camping site shall be the person to whom the camping site has been leased, and no camping site may be sub-let, ceded, sold or in any illegal manner be given to any other person for use, by the occupant of a camping site.
- (5) The reservation of camping sites shall only be considered upon receipt of a written or telephonic application, or any other accepted method of application determined by the Municipality.
- (6) The Municipality may determine additional conditions for the use of all or any of the camping sites and caravan parks, under the control of the Municipality.

CHAPTER 2: GENERAL PROVISIONS

12. POWERS OF AUTHORIZED OFFICIALS

- (1) The authorized officials appointed by the Municipality to monitor and enforce this by-law, may investigate any act or omission, which on reasonable suspicion may constitute an offence in terms of this by-law.
- (2) Authorized officials and life guards may not be hindered or obstructed in the execution of their duties, or an authorized official may not be obstructed in obtaining access to any premises.

13. 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 Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), as amended, 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.

14. OFFENCES AND PENALTIES

Any person who —

- (a) fails to comply with the instructions of an authorized official issued in terms of this by-law;
- (b) fails to comply with any notice served in terms of this by-law;

- (c) contravenes any provision of this by-law;
- (d) fails to comply to any instruction posted on a notice board; or
- (e) deliberately obstructs an authorized official in the execution of his or her duties in terms of this by-law,
is guilty of an offence and is liable on conviction, for –
 - (i) a fine or imprisonment, or to such imprisonment without the option of a fine, or a fine, or to both such fine and such imprisonment;
 - (ii) 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
 - (iii) 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.

15. LIMITATION OF LIABILITY

The Municipality is not liable for any damage or loss caused by the exercise of any power or the performance of any duty in good faith under this by-law.

16. SERVING OF NOTICES AND OTHER DOCUMENTS

- (1) A notice, instruction, letter of demand, or other document issued by the Municipality in terms of this by-law, is deemed to be duly issued, when a duly delegated official of the Municipality has signed it.
- (2) Any authorized notice, instruction, letter of demand, or other document that is served on a person in terms of this by-law, is regarded as having been duly and effectively served –
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic of South Africa, with a person apparently older than sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic of South Africa, and proof of the posting thereof is provided;
 - (d) if that person's address in the Republic of South Africa is unknown, when it has been served on that person's agent or representative in the Republic of South Africa, in a manner as provided in subsections 16(2)(a), 16(2)(b) or 16(2)(c) of this by-law;
 - (e) if that person's address and agent or representative in the Republic of South Africa is unknown, when it has been posted in a conspicuous place on the property or premises to which it relates; or

- (f) in the event of a body corporate, when it has been delivered at the registered office or the business premises of the body corporate.
- (3) When any notice, instruction, letter of demand, or other document is served on a person in terms of this by-law, it is sufficient for purpose of the serving of the notice, instruction, letter of demand or other document, to describe the person in the notice, instruction, letter of demand or other document as the owner, occupant, or holder of the property or rights in question, and it is not a requirement to name that person.
- (4) A notice, instruction, letter of demand, or other document shall for purpose of authentication, be properly signed by the Municipality.

17. CONCLUDING OF AGREEMENTS

The Municipality may enter into written agreements with any person, a consortium, a company, a municipality or an organ of state, a local community or an organisation, in terms of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), as amended, to provide for –

- (a) the collective development of any public amenity;
- (b) the use of any public amenity for the purposes, subject to conditions as stipulated in an agreement;
- (c) the collective management of any public amenity; and
- (d) the provision and regulation of activities at a public amenity.

18. COMMUNITY LIASON FORUMS

- (1) The Municipality may establish liaison forums in a community for the purpose of –
- (a) creating opportunities for the community to participate in the affairs of the Municipality;
 - (b) to advise the Municipality on matters referred to the liaison forum by the Municipality, and
 - (c) promoting a safe and healthy environment.
- (2) A liaison forum may consist of –
- (a) a member or members of an interested group or affected persons;
 - (b) a member or members of the community; and
 - (c) a designated official or officials of the Municipality, or other organs of state.

- (3)(a) The Municipality may, when considering an application for an approval, consent or a permit in terms of this by-law, request the input of a liaison forum.
- (b) A liaison forum or any person or persons contemplated in subsection 18(2) of this by-law, may on their own initiative provide input to the Municipality for consideration.

19. 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.

20. 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 –

Name of by-law	Date published	As a whole or partially
Camping Sites By-law	PG 6234 dated 8 March 2005	As a whole
Parks for Caravans and Mobile Homes By-law	PG 6234 dated 8 March 2005	As a whole
Swimming Pool By-law	PG 6234 dated 8 March 2005	As a whole
Public Nuisances By-law	PG 6234 dated 8 March 2005	As a whole

21. SHORT TITLE

This by-law shall be called the Public Amenities By-law of the Theewaterskloof Municipality.

22. OPERATIVE DATE

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