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LOCAL AUTHORITY

City of Cape Town: Recreational Water-Use By-Law 2

CITY OF CAPE TOWN**RECREATIONAL WATER-USE BY-LAW, 2018**

To regulate the use and control of recreational water within the jurisdiction of the City of Cape Town; to control the use of vessels thereon; so as to provide for safe and environmentally sensitive recreation; 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 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 beaches and amusement facilities, local amenities, public places, local sport facilities 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 wishes to manage and control the recreational use of public inland waters, and the use of vessels thereon within its jurisdiction;

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

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CHAPTER I – INTRODUCTORY PROVISIONS

Definitions

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

“abandoned” in relation to any vessel means to permanently relinquish ownership;

“aircraft” means any object driven or propelled, or which glides on or over the surface of a public inland recreational water area, 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 public inland recreational water area;

“air-screw driven craft” means a craft that is driven by a propeller or air screw that is above the water;

“alien” means any wild animal or fish that is not indigenous to the specified recreational water or any animal or fish listed in Schedule 3;

“angling licence” means any licence required in terms of any Provincial or National law to angle for fish;

“angling season” means the period of time stipulated in terms of any law or regulation, that is applicable for that species of fish, during which the catching of that species of fish is permitted;

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

“aquatic animal” means an animal that lives in water for most or all of its life and includes fish, amphibians and invertebrate animals and the eggs or immature forms of any such animal;

“aquaplaner” means a person being towed behind a vessel on a board, inner tube, tyre or other floating device;

“aquaplaning” means to be towed behind a vessel on a board, inner tube, tyre or other floating device, including a wake board;

“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;

“**beaching**” means to secure a vessel or any other object or body in water by pulling it on to the bottom or bank of a water body, or to allow the vessel or other object or body to drift on to such a bottom or bank;

“**boat**” means an object driven or propelled on the surface of a public inland recreational water area by means other than mechanical or electrical;

“**catch**” in relation to fish, means to take, whether alive or dead, injure, immobilise or kill or to attempt in any manner whatsoever to do so, or to pursue or wilfully disturb;

“**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;

“**class of vessels**” means any group of vessels that are similar and are recognised as such by the National body of that particular sporting code;

“**code of practice**” means a written set of specific rules for the use of a specific recreational water body by users and are not contrary to this By-law;

“**electric boat**” means any object capable of being driven or propelled through water or on the surface of water, exclusively powered by electricity;

“**firearm**” means any device as contemplated by the Firearms Control Act, 2000 (Act No. 60 of 2000) but excludes a starter pistol or similar signalling device;

“**fish**” means any vertebrate animal of the Phylum Chordata and group Craniata that breathes primarily by means of gills;

“**fishing**” means any activity aimed to trap, ensnare or obtain fish;

“**flare**” means any device that creates a visual signal by means of combustion;

“**flora**” means any flower, plant, shrub or tree or part thereof;

“**hook**” means a fishing device that has one or more barbed or barbless tips and a single eye for attaching to a line;

“**hovercraft**” means any vessel capable of being lifted above the ground by a cushion of air;

“hunt” in relation to an animal, means to search for, pursue, kill, trap, snare, capture or attempt to do so in any way, or to follow or drive with intent to kill or capture, or to shoot at, poison, lie in wait for or wilfully to disturb;

“indigenous”

- (a) in relation to a species, means a species that occurs, or has historically occurred, naturally in a free state in nature within the borders of the City; and
- (b) in relation to a specific plant or wild animal, means a plant or wild animal of a species referred to in (a);

“jet ski” means any vessels propelled by a jet of water or internal propeller;

“keep net” means a net specifically designed to temporarily hold fish alive in a water body;

“kill switch” means a mechanism that is attached to the skipper or operator of a vessel and that stops the engine immediately when that person loses his or her footing or becomes otherwise incapacitated;

“launch” means to place any boat, electrical boat or power boat on to a recreational water area;

“licence” means a licence issued by the City in terms of this By-law for which a tariff may be charged;

“life jacket” means a personal buoyancy aid that is worn as a vest or belt and is approved by the South African Maritime Safety Authority (SAMSA) or other international Marine Safety Authorities;

“model aircraft” means any miniature aircraft not capable of, or intended for the conveying of persons, that is or may be controlled from a remote location and includes drones;

“model boat” means a miniature boat not capable of, or intended for the conveying of persons, that is controlled from a remote location;

“model electrical boat” means a miniature electrical boat not capable of, or intended for the conveying of persons, that is controlled from a remote location;

“model power boat” means a miniature power boat not capable of, or intended for the conveying of persons, that is controlled from a remote location;

“mooring” means to secure a vessel by tying it to a structure or anchor;

“motor vehicle” means anything defined as a motor vehicle in terms of the National Road Traffic Act, 1996 (Act No. 93 of 1996);

“nature reserve” means any area set aside, proclaimed, protected or published in any government gazette in terms of any law for the purposes of nature conservation;

“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 recreational water and optionally combined with buoys or markers placed in or on a recreational water, 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 recreational water area or amenity connected therewith;

“operating times” means the period of time between and including the opening time and closing time of a recreational water;

“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);

“permission” means the written consent issued by an authorised official of the City in terms of this By-law;

“permit” means written permission issued by the City for which a tariff may be charged unless the context indicates otherwise;

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

“power boat” means any object capable of being driven or propelled through water or on the surface of water, wholly or partly powered by an internal combustion engine;

“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;

“safety officer” means a person, not employed by the City, who is nominated and appointed in terms of section 24 to perform certain functions on a voluntary basis;

“set line” means any fishing line set to catch fish that is left unattended;

“**slipway**” means any site designated for the launching of any vessel and demarcated as such by the City;

“**swim**” means a person or animal immersing the body in water, and to either remain stationary, or to propel forward by the power of the body only;

“**special events**” means any function or activity that requires a permit in terms of the City of Cape Town: Events By-Law, 2009 or any other applicable law;

“**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;

“**underway**” means in relation to a vessel that the vessel is not at anchor or made fast to the shore or aground;

“**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;

“**wake boarding**” means being towed behind a vessel on a board or other device;

“**water jet**” means a jet of water generated by a motor;

“**water ski**” includes towing a person or persons on any device behind a vessel, and the noun

“**water skier**” has a corresponding meaning;

“**wild animal**” means any member of the animal kingdom that is not a human being, or a microorganism, whether or not the animal in question is alive or dead, tame, bred or kept in captivity, and includes the eggs, spawn, gametes, genetic material, or any part of such an animal.

Application

2. This By-law applies to recreational waters within the City's area of jurisdiction.

CHAPTER II - VESSELS

Vessel compliance and safety

3. (1) Any person intending to launch or use any vessel, or who is operating or using such vessel upon any recreational water must—
- (a) be in possession of any licences and registrations and display such licences and registrations;
 - (b) have adequate flotation and proof of buoyancy;
 - (c) must launch, operate or use such vessel in adherence to this By-law; and
 - (d) may not launch, operate or use any vessel that does not comply with this By-law.
- (2) Any person contemplated in subsection (1) must submit such vessel for examination and inspection where requested by an authorised official.
- (3) Any vessels contemplated in subsection (1) must be launched at a slipway designated for this purpose by the City.
- (4) All vessels contemplated in subsection (1) must—
- (a) be of the prescribed design;
 - (b) have adequate means of propulsion, and have paddles or a second means of propulsion;
 - (c) be fitted with an approved silencer system; and
 - (d) be fitted with charged fire extinguishers.
- (5) The number of persons permitted on board any vessel must not exceed the seating or standing accommodation provided in or on such vessel.
- (6) No person may, while within a recreational water, except during an emergency—
- (a) carry out mechanical, electrical or other repairs to any vessel; or
 - (b) launch, operate or use any vessel within any recreational water—

- (i) if he or she suffers from any physical condition which renders him or her unfit to do so;
 - (ii) outside the zones, circuits or operating times specified for such type of vessel at that recreational water; or
 - (iii) outside the opening and closing times for that recreational water.
 - (c) fire a flare or smoke-producing device.
- (7) No person may launch, operate or use any vessel on any recreational water—
- (a) in a manner that recklessly or negligently endangers themselves, any other person, any property or any animal;
 - (b) while under the influence of alcohol or any narcotic substance;
 - (c) at a speed or in a manner dangerous to the public or to the occupants of such vessel;
 - (d) without reasonable consideration for the rights of other persons using such recreational water;
 - (e) in a manner which—
 - (i) constitutes a nuisance; or
 - (ii) constitutes a disturbance to the peace.
 - (f) at a speed in excess of the maximum speed applicable in terms of the Code of Practice; and
 - (g) without utilising the kill switch, where such an engine has been fitted with one, while the vessel is underway.
- (8) On vessels where life jackets are required in terms of any other law, such vessels must be provided with a sufficient number of life jackets for all persons on board the vessel when in use.
- (9) No person may operate or be a passenger on a vessel without wearing a life-jacket where the use of a life-jacket is required for that type of vessel in terms of any other law.
- (10) Wind surfers and kite surfers on any recreational water are exempt from wearing life jackets where a wetsuit and harness is worn instead.

Abandoned Vessels

4. (1) Any vessel on any recreational water that is—
- (a) found sunken or adrift without an occupant for greater than a day; or
 - (b) beached or moored without an occupant for a period greater than 7 days,
- shall be deemed to be abandoned, except where such a vessel is moored to a jetty or structure authorised in terms of section 9.
- (2) No person may cause or allow any vessel to become abandoned in terms of subsection (1).
- (3) The City may remove or cause to be removed any vessel deemed to be abandoned in terms of subsection (1).
- (4) The City shall store any vessel removed in terms of subsection (3) for a period of no less than 90 days and shall make a reasonable effort to locate the lawful owner of such vessel by displaying a notice for a period not less than 14 days at the relevant recreational water and informing the Water Body Advisory Committee at the relevant recreational water. Should the vessel not be claimed by the lawful owner within 90 days the vessel shall be forfeited to the City.
- (5) Should the lawful owner of a vessel that has been removed in terms of subsection (3) claim such vessel then the lawful owner is liable for any costs incurred by the City in terms of subsection (3) or (4).
- (6) Any outstanding costs in terms of subsection (5) and any outstanding penalties imposed in terms of section 31 must be paid or settled in full by the lawful owner before taking possession of such vessel.

Restrictions on use

5. (1) The City may, subject to such conditions as it may stipulate, give permission to any person, including a juristic person or association of persons, subject to any other applicable legislation, to launch, operate or use any vessel upon any recreational water—
- (a) for the purpose of providing an emergency, rescue or transport service;
 - (b) to provide a municipal service;

- (c) to assist in the enforcement of this By-law; or
 - (d) for the purpose of undertaking research or a survey for scientific purposes.
- (2) The City may, subject to section 21, by notice—
- (a) prohibit the use of any vessel or type of vessels on any recreational water;
 - (b) restrict the number of vessels or the number of any class of vessels which may simultaneously operate on any recreational water;
 - (c) restrict the maximum allowable speed of any vessel or any class of vessels on any recreational water;
 - (d) restrict the operating times for any vessel or class of vessels;
 - (e) restrict the use of a recreational water or part thereof for a special event;
 - (f) designate and demarcate zones or circuits that either—
 - (i) restrict the operation or use; or
 - (ii) confine the operation or use; of any vessel or class of vessels therein; or
 - (g) designate any exclusion zone that prohibits the use, operation or mooring of any vessel or boat therein.
- (3) No person may in, on or over any recreational water where a Code of Practice has been adopted in terms of Section 23, launch, operate or use any—
- (a) power boat;
 - (b) electric boat;
 - (c) model boat;
 - (d) model electrical boat;
 - (e) model power boat;
 - (f) model aircraft;
 - (g) hovercraft;
 - (h) airscrew-driven craft;

- (i) vessel for the purpose of aquaplaning or water-skiing;

other than inside an area demarcated and designated by notice for these purposes by the City.

- (4) No person may without the prior written permission of the City in, on or over any recreational water—

- (a) overnight on recreational water;
- (b) launch or land any aircraft or helicopter on any recreational water;
- (c) operate or use any—
 - (i) jet ski or similar vessel; or
 - (ii) vessel propelled by means of a water jet.

Mooring of vessels

6. (1) No person may, without the permission of the City, cause or allow any vessel to—

- (a) remain on or in;
- (b) be moored upon;
- (c) be anchored on; or
- (d) be left unattended on or in,

any recreational water outside of the operating times of that recreational water except where it is allowed by this by-law, such as moored against a structure contemplated in section 9.

- (2) Any person who contravenes or fails to comply with subsection (1) is guilty of an offence and is liable on conviction to the sanction provided for in section 31.

Power boats

7. (1) No person under the age of 16 years may be in control of a power boat.

- (2) No power boat or electric boat may, unless otherwise designated by notice, be operated on any recreational water at a speed in excess of—

- (a) 80 kilometres per hour (43.19 knots); and

- (b) 20 kilometres per hour (10.8 knots) within 20 metres of the shore and launching slipways.
- (3) Any person operating a power boat or electric boat on any recreational water must—
- (a) except when landing on the shore or a launching slipway, or inside an area demarcated and designated by notice, as far as practicable keep at least 20 m away from any bank, shore, wharf, structure, any person or other vessel;
 - (b) take all reasonable steps to prevent collisions.
- (4) No power boat or electric boat operating on any recreational water may exceed 7,315 m (24 feet) in overall length without written permission from the City.
- (5) No person may launch, operate or use a power boat or electric boat on any recreational water, except in accordance with this By-law.

Water skiing, aquaplaning and wake boarding

8. (1) An appropriate floatation device must be worn at all times by any person water skiing or aquaplaning on any recreational water.
- (2) Subject to subsection (4), no person may operate a power boat towing a water skier or aquaplaner on any recreational water without having an observer over the age of 16 years of age on board.
- (3) Subject to subsection (4) where a water skier or aquaplaner has fallen off or became detached from the tow rope—
- (a) a red flag must be displayed by the observer in such a way that it is clearly visible to other vessels; and
 - (b) the towing power boat must stop immediately to retrieve or collect the water skier or aquaplaner while the observer pulls the towing rope back on board.
- (4) Subsection (2) and (3) shall not apply to special events or to events where the City has expressly waived these subsections as a condition to the event in writing.
- (5) After beaching a water skier on any recreational water, the towing power boat must maintain its speed in an outward direction while pulling the towing rope back on board.
- (6) A towline used upon any recreational water—

- (a) must be of a floating line type;
 - (b) may not be more than 23 metres in length.
- (7) Any person who contravenes or fails to comply with any provision of this section or any condition, is guilty of an offence and is liable on conviction to the sanction provided for in section 31.

Structures

9. (1) No person may without a permit from the City and subject to any other applicable legislation—
- (a) construct or cause to be constructed any jetty, pier or similar structure designed for the mooring of vessels or recreation;
 - (b) construct or cause to be constructed any slipway, ramp or similar structure designed for the launching of vessels in, on or over any recreational water;
 - (c) construct or cause to be constructed any water-ski ramp or wake board ramp or similar structure in, on or over any recreational water.
- (2) No person may without a permit from the City and subject to any legislation or marine notice issued by the South African Maritime Safety Authority deploy a buoy or similar marker device in, on or over any recreational water.
- (3) Any application made to the City for the construction of any structure contemplated under this section must include a detailed plan indicating its proposed design and location.
- (4) The City may refuse any application made in terms of this section.
- (5) When granting a permit to construct any structure contemplated in this section the City may impose any limitations, terms or conditions on the ownership, control, construction and use of the structure.
- (6) The City may inspect any structure contemplated in this section from time to time to ensure that any limitations, terms or conditions imposed on the ownership, control, construction and use of the structure are being adhered to.
- (7) Should any limitation, terms or conditions on the ownership, control, construction and use of any structure contemplated in this section be contravened or should the

structure fall into a state of disrepair then the City may order or cause the structure to be removed at the expense of the owner.

CHAPTER III – FISHING

Restricted activities relating to recreational water

10. (1) The City may by notice—

- (a) prohibit the catching of fish within any recreational water;
- (b) restrict the operating times for the catching of fish;
- (c) place any restriction on the catching of fish;
- (d) designate and demarcate zones that therein either—
 - (i) prohibit the catching of fish; or
 - (ii) confine the catching of fish subject to any restrictions.

(2) No person may, while within a recreational water, catch or attempt to catch fish-

- (a) where the catching of fish is prohibited; or
- (b) in contravention of any restriction indicated.

Prohibited ways of catching fish

11. (1) Subject to the provisions of section 10, no person may catch or attempt to catch fish in a recreational water—

- (a) where it is prohibited by notice;
- (b) that is within a nature reserve, where the catching of fish is prohibited unless permitted by notice;
- (c) by snatching or spearing;
- (d) by means of a spear, spear-gun, bow-and-arrow, cross-bow, cast net, fyke net, stake net, gill net, trek net or any similar device except using a landing net that is specifically designed and exclusively used for landing a fish hooked on a line or a net specifically designed as a keep net;

- (e) by means other than with a rod and reel or hand-line;
 - (f) by angling by means of—
 - (i) more than two lines;
 - (ii) more than two hooks attached to any line; or
 - (iii) a set line.
 - (g) using a light during the hours of darkness;
 - (h) from a bridge or any overhead structure;
 - (i) using anything that is alive as bait; and
 - (j) using as bait any wild animal collected from any recreational water.
- (2) Any person who contravenes or fails to comply with any provision of this section or any condition, requirement or restriction of any permit, licence or angling licence required under this section, is guilty of an offence and is liable on conviction to the sanction provided for in section 31.

General prohibitions relating to recreational water

12. (1) Subject to section 13, no person may within any recreational water—

- (a) deposit, discharge, or cause or allow to be deposited, any substance or thing into any recreational water or in a place where it is likely to enter a recreational water, which causes or is likely to cause, an adverse effect on recreational water;
- (b) introduce or release into a recreational water, or cause or allow to be introduced or released, any wild animal or aquatic plant, or any live fish except in the circumstances referred to in subsection (2);
- (c) place or cause or allow to be placed anything which will or is likely to prevent the free passage of fish through the recreational water;
- (d) kill or injure any fish, other than a fish that is an alien;
- (e) kill or injure wild animals, by any means whatsoever;
- (f) wilfully disturb or destroy the spawn of any fish in a recreational water;

- (g) attempt to catch, or have in his or her possession, any fish which is a protected wild animal in terms of any legislation;
 - (h) catch or attempt to catch any species of fish or other wild animal using a method or equipment that is prohibited in terms of section 11;
 - (i) fish for or have in his or her possession, any fish at a time when it is not the angling season for that species of fish as prescribed by any legislation in respect of that species;
 - (j) attempt to catch or kill more fish in a day than the daily bag limit prescribed by any legislation in respect of that species;
 - (k) catch, kill or be in possession of any fish or aquatic animal which is smaller than the size or mass prescribed by any legislation in respect of the species of such fish or aquatic animal;
 - (l) possess, transport, sell or buy any aquatic animal which was caught in contravention of this By-law; or
 - (m) clean, gut, descale or dispose of any alien fish or part thereof caught in terms of this By-law.
- (2) Any fish, other than alien fish, which is caught in a recreational water must be released alive back into the recreational water before the water user departs from the recreational water.
- (3) The City may, for purposes of a special event, waive the provisions set out in subsections (1)(b), (d), (e), and (2), of the By-law.
- (4) Reasonable care must be taken to ensure that any fish caught with the intention of being released back into the recreational water is not unnecessarily injured or killed.
- (5) Notwithstanding the provisions of subsection (1)(b) the City may via notice, signage or written permit allow domestic dogs to enter a recreational water.
- (6) Any person who contravenes or fails to comply with any provision of this section or any condition, requirement or restriction of any permit, licence or angling licence required under this section, is guilty of an offence and is liable on conviction to the sanction provided for in section 31.

Licences in relation to aquatic species

13. (1) No person may angle in any manner for fish in a recreational water unless authorised to do so in terms of the applicable angling licence and is in possession of such an angling licence at the time of angling and, where required by this By-law, unless he/she is in possession of any applicable permit or licence required by the City.
- (2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to the sanction provided for in section 31.

Aquatic vegetation

14. No person may in or over recreational water, cut, harvest or remove any plant unless permitted to do so in writing by the City.

Exemption for scientific purposes

15. (1) The City may grant exemption from any provision of this Chapter to any person doing research recognised by an appropriate tertiary education institution or management authority.
- (2) An exemption referred to in subsection (1) must be in writing and subject to whatever conditions the City considers appropriate.

CHAPTER IV – GENERAL**Water abstraction**

16. No person may drain, abstract, or divert any water from any recreational water without the prior written permission of the City.

General provisions

17. (1) The City may prescribe, by notice, opening and closing times to any recreational water.
- (2) For any recreational water the opening time shall be sunrise and the closing time shall be sunset unless otherwise designated by notice or in a published code of practice for the specific recreational water.

- (3) No person may be in or on any recreational water outside of the opening times for that recreational water without written permission from the City.
- (4) No person may, within a recreational water—
- (a) hunt any wild animal;
 - (b) introduce an accompanying dog other than according to the provisions of the City of Cape Town Animal By-law, 2010; or
 - (c) introduce an accompanying dog contrary to any published code of practice or notice displayed by the City on site.

Swimming

- 18.** No person may in recreational water, where swimming is prohibited by notice, use the recreational water for swimming, except during an emergency.

Limitation of restrictions to the City

- 19.** Notwithstanding the provisions of this by-law and subject to any other applicable legislation, the City may—
- (1) launch, operate or use any vessel within any recreational water for the purpose of providing an emergency or rescue service, to provide a municipal service, or to enforce this by-law;
 - (2) perform any task or take any action necessary to provide any service required or mandated by any applicable legislation; or
 - (3) allow any other person, organisation or company to perform any task or take any action necessary to provide any service required or mandated by any applicable legislation.

CHAPTER V – ADMINISTRATION AND CO-OPERATIVE GOVERNANCE

Administration and permissions

- 20.** Where permission is sought for activities in this by-law, the City may through its delegations authorise officials to provide such permission.

Right of entry and fees

21. (1) The City may, where good cause exists, prohibit access to any recreational water.
- (2) The City may prescribe access control points and appoint access control, visitor control or compliance staff for any recreational water.
- (3) The City may prescribe fees as per its published tariff schedule as well as authorise the issuing of permits for any activity or for the use of any amenity or facility provided by the City, in connection with any recreational water.
- (4) No person may enter, perform any activity, be in or on or remain in or on any recreational water or any amenity or facility in or on any recreational water unless he or she has paid the prescribed charge or fee at an access control point, where such prescribed charge or fee is applicable in terms of subsection (3).
- (5) The City may, in the interests of public safety for disaster management or for the purposes of environmental management, evacuate or close any recreational water for an appropriate period of time.

Water Body Advisory Committees

22. (1) The City may propose to establish or abolish a Water Body Advisory Committee for a specified recreational water or group of recreational waters comprised of interested and affected organisations, groups or bodies.
- (2) The Water Body Advisory Committee proposed by the City for specified recreational water or group of recreational waters must develop a constitution which must be submitted to the City for approval.
- (3) The Water Body Advisory Committee is established upon adoption of its constitution by the City.
- (4) Where recreational water falls within a nature reserve proclaimed in terms of legislation, such a Water Body Advisory Committee contemplated in sub-section 1 will form part of the relevant Protected Area Advisory Committee where such has been established for the nature reserve.
- (5) The Water Body Advisory Committee may in consultation with the authorised official—

- (a) propose a code of practice; and
 - (b) nominate safety officers for a relevant recreational water.
- (6) Water Body Advisory Committees may participate in the decision-making processes by providing input and recommendations to the City concerning the relevant recreational water, such as—
- (a) any restrictions applied to a recreational water;
 - (b) the relaxation, amendment or removal of existing restrictions applied to a recreational water;
 - (c) the creation, amendment or removal of zones, circuits or exclusion zones and amending operating times contemplated in section 5;
 - (d) the issuing or making of any change to a code of practice contemplated in section 23.
- (7) The Water Body Advisory Committee may make recommendations to the City regarding compliance with this by-law by recreational water users.
- (8) A person or organisation who has a particular interest in participating in decision making processes for any specific recreational water, may apply to the Water Body Advisory Committee to be registered as an interested and affected party.
- (9) The Water Body Advisory Committee may register interested persons or organisations as an interested and affected party for a relevant recreational water.

Codes of practise

- 23.** (1) The City may adopt a code of practise drafted by the Water Body Advisory Committee for a specific recreational water and may amend or revoke the code of practice in the same manner.
- (2) Upon adopting a code of practise, or revised code of practise, the City must be satisfied that the Water Body Advisory Committee has consulted the relevant recreational water users and interested and affected parties of the relevant recreational water.
- (3) Any code of practice that is in effect shall be adhered to by any users of the recreational water to which it applies.

- (4) The City must ensure that any code of practice issued or revised under this section is visibly displayed at the water body and make copies of the code of practice available to the users of the relevant recreational water.

Safety Officers

- 24.** (1) Any recognised organisation, club or representative body that has an interest in any recreational water may nominate persons to the Water Body Advisory Committee for consideration as safety officers.
- (2) A Water Body Advisory Committee may nominate safety officers to the City for a relevant recreational water.
- (3) The City may appoint safety officers for a recreational water and set in writing any prerequisites, terms, conditions or restrictions on any such appointments.
- (4) The City must inform the Water Body Advisory Committee of any safety officers that it appoints.
- (5) The City must issue any duly appointed safety officer with 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.
- (7) The safety officer may issue verbal or written instructions to recreational water users relating to compliance with this by-law.
- (8) The safety officer may make recommendations to the Water Body Advisory Committee regarding compliance with this by-law by recreational water users.
- (9) The City may, upon recommendation by the relevant Water Body Advisory Committee, or of its own accord, cancel the appointment of a safety officer.

Public notices

- 25.** (1) 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.
- (2) The City must erect public notice boards within or near the affected recreational water to notify interested and affected parties of permissible activities and prohibitions in terms of this By-law.

- (3) 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 recreational water; or
 - (c) use public meetings, Water Body Advisory Committee meetings or other means of bringing information to the attention of these parties.

CHAPTER VI – COMPLIANCE AND ENFORCEMENT

Authorised officials

- 26.** (1) The City may delegate officials to 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 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.

Powers of authorised officials

- 27.** Notwithstanding the provisions of this By-law, and subject to any other applicable legislation, an authorised official may—
- (1) launch, operate or use any vessel upon any recreational water 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 or a survey;
 - (2) do anything in, on, over or to any recreational water in the exercise of a lawful power or duty; and

- (3) subject to relevant legislation, on any recreational water, 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.

Enforcement powers of peace officers and authorised officials

28. (1) Any peace officer or an authorised official may order any person who contravenes this By-law, or contravenes any other law within any recreational water—

- (a) to immediately leave and depart;
- (b) to remove any vessel or vehicle under the control of such person; or
- (c) to leave and remove any vessel or vehicle,

from any recreational water.

(2) Should the person referred to in subsection (1) fail to comply with such an order, the peace officer or authorised official may remove the vessel or vehicle, or cause it to be removed from the recreational water and the costs incurred in removing it shall be borne by the owner of such vessel or vehicle.

(3) Any peace officer or authorised official may issue a lawful instruction, whether verbally or in writing, to any person on or in any recreational water and the instruction must be complied with.

(4) Any peace officer or authorised official may inspect or search any vessel which is to be launched or used on any recreational water.

Impoundment or holding of goods

29. (1) Subject to the City's procedures relating to impoundment, an authorised official may—

- (a) hold goods that are not permitted into or on a recreational water; or
- (b) hold or impound goods whether on private or public land where he or she reasonably suspects that 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 recreational water.
- (4) Impounded goods that have not been collected from the City within 3 months will be forfeited to the City.
- (5) The City may dispose of impounded or abandoned goods which have been forfeited to the City by destruction, sale, donation or any other means.

CHAPTER VII – OFFENCES AND PENALTIES

Offences

30. Any person who—

- (a) contravenes or fails to comply with any provision of this By-law;
- (b) fails or refuses to comply with any lawful instruction by a peace officer, or authorised official;
- (c) who resists, obstructs, interferes with or hinders, a peace officer or authorised official in the execution of his or her duty;
- (d) impersonates any peace officer or authorised official; or
- (e) disregards a banning instruction issued by the City in terms of section 31 (2) and section 31 (3),

commits an offence.

Penalties

31. (1) Any person who commits an offence referred to in section 30 is liable to a fine or upon conviction to imprisonment for a period not exceeding 12 months or to such imprisonment without the option of a fine, or to both such fine and such imprisonment.
- (2) The City may ban any person who fails to comply with any provisions of this By-law from entering or using any recreational water(s) or nature reserve(s) for a determined period of time.
- (3) The City may ban any vessel or vehicle that fails to comply with any provisions of this By-law from entering or using any recreational water(s) or nature reserve(s) for a determined period of time.
- (4) A ban imposed in terms of sub sections 2 and 3 must be reduced to writing and served on the person or owner of the vessel or vehicle.

CHAPTER VIII – LEGAL AND TRANSITIONAL PROVISIONS**Transitional provisions**

32. Despite the repeal of By-laws by section 34, current provisions relating to the use of vessels on recreational water bodies remain in effect for a period of twelve months from the date of commencement of this By-law.

Development and Amendment of Lists

33. (1) The City may develop—
- (a) a list of approved pictograms; and
 - (b) a list of alien animals.
- (2) The City may amend the lists made in terms of subsection (1).
- (3) Lists made or amended in terms of this section must be displayed by notice.

Repeal of By-laws

34. The By-laws listed in Schedule 1 hereto are hereby repealed.

Appeals

35. Any person may appeal against a 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).

Short title and Commencement

36. This By-law is called the City of Cape Town: Recreational Water-Use By-law, and comes into operation on promulgation in the Provincial Gazette.

SCHEDULE 1**Repeal of By-Laws**

ADMINISTRATION	BY-LAW TO BE REPEALED
Milnerton Municipality	By-Law relating to the use and control of the Rietvlei water area P.N. 912/1977 (2 September 1977) and the following amendment promulgated thereto: P.N. 279/1984
Cape Town Municipality	By-law relating to the control and use of vleis and boating thereon P.N. 16/1980 (11 January 1980) and the following amendments and corrections promulgated thereto: P.N. 806/1985 (Amendment) P.N. 846/1985 (Correction Notice to P.N 806/1985) P.N. 586/1986 (Amendment) P.N. 148/1993 (Amendment) P.N. 182/1993 (Correction Notice to P.N. 148/1993)
Durbanville Municipality	By-law relating to fishing and swimming in municipal dams. P.N. 1023/1977

SCHEDULE 2

List of approved pictograms for use on recreational waters' notice boards

	Stay on boardwalk		Fires in demarcated areas		Fishing		Restrooms		Wheelchair access		Swimming allowed		Do not pick flora
	Stay on pathways		Braais allowed		Fishing with permit only		Female restroom		Parking		Swimming is dangerous		Useful plants
	Hiking / Walking		No fires		No fishing		Male restroom		Visitors parking		No swimming		Unique vegetation
	Guided walk		No fires or gas braais		No treble hooks		Restaurant		No parking		Windsurfing		Nature appreciation
	Trail running		No overnighting		No fishing off bridges		Picnic area		Information		Water skiing		Do not damage fauna or flora
	Scenic views		No alcohol		No fishing at night		Use litterbins		Speed limit		Boat launch		General fauna
	Pathway		No firearms		No fishing with nets		Bin free area Do not litter		No access		Motorboating		Bird viewing
	Dog free running area		No hunting		No prawn pumping		Education facilities		No vehicles		Sailing		Birdhide
	Dogs on leash		No dumping		No bait collection		Overnight education facilities		No off-road vehicles		No sailing		Do not feed the animals
	No dogs allowed		No sand-mining		No use of live bait		Accommodation		No mountain bikes		Natural pool		Photos allowed
	Poop scoop area		No music		No lobster fishing		Permit needed		No driving on sand dunes		Boma		Discovery trail
	No driftlines		Playground		Conservation office		Beware of snakes		Canoeing allowed		Power boats allowed		Pathway
	Bag limits		No smoking		Beach		Kite surfing		No canoeing		No power boats		
	Size limits		Do not leave valuables in vehicle		No boats of any kind allowed		No kite surfing		Jet skis prohibited		Electric boats allowed		
	Beware of falling branches		Safeguard valuables				No mooring of vessels		No water skiing		No electric boats		

SCHEDULE 3**List of alien animals**

Family name	Scientific name	Common name (where known)
CLASS: AMPHIBIA		
BUFONIDAE	<i>Sclerophrys gutturalis</i>	Guttural Toad
	<i>Sclerophrys pardalis</i>	Eastern Leopard Toad
HYPEROLIIDAE	<i>Hyperolius marmoratus</i>	Painted Reed Frog
CLASS: PISCES		
CENTRARCHIDAE	<i>Lepomis macrochirus</i>	Bluegill sunfish
	<i>Micropterus spp.</i>	Bass
CICHLIDAE	<i>Oreochromis mossambicus</i>	Mozambique Tilapia
	<i>Tilapia sarrmanii</i>	Banded Tilapia
CLARIIDAE	<i>Clarias gariepinus</i>	Sharp-tooth Catfish
CYPRINIDAE	<i>Carassius auratus</i>	Goldfish
	<i>Cyprinus carpio</i>	Carp
	<i>Ctenopharyngodon idella</i>	Grass Carp
POECILIIDAE	<i>Gambusia affinis</i>	Mosquito Fish
SALMONIDAE	<i>Oncorhynchus mykiss</i>	Rainbow Trout

	<i>Salmo trutta</i>	Brown Trout
CLASS:REPTILIA		
EMYDIDAE	<i>Trachemys scripta</i>	Red-eared Terrapin

