

## EKURHULENI METROPOLITAN MUNICIPALITY

### REGULATION OF PARKS AND OPEN SPACES BY-LAWS

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Notice is herewith given in terms of the provisions of Section 7 of the Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998), read with [Sections 11, 12](#) and [13](#) of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000), that the Ekurhuleni Metropolitan Municipality at a meeting held on 25 January 2007, resolved to amend and pass the Regulation of Parks and Open Spaces By-laws as follows.

#### Preamble -

WHEREAS Section 156(2) and (5) of the Constitution provides that a municipality may make and administer By-laws for the effective administration of the matters which it has the right to administer, and to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its functions;

AND WHEREAS Part B of Schedule 5 to the Constitution lists municipal parks and recreation as a local government matter to the extent set out in Section 155(6)(a) and (7);

AND WHEREAS the National Environmental Management Act, 1998 (Act 107 of 1998) gives effect to the constitutional right aimed at protecting the environment by providing environmental management principles that apply throughout the Republic to the actions of all organs of state that may significantly affect the environment;

BE IT ENACTED by the Council of Ekurhuleni Metropolitan Municipality, as follows:-

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- 1. Definitions**

**Comment [C1]:** Apart from the above suggested changes to the preamble, it is recommended that these by-laws be replaced by new Public Open Spaces By-laws modelled according to the City of Joburg's Public Open Spaces By-laws. Chapters 12 on Lake & dam waters and 13 on Angling could be retained as there are no such provisions in the Joburg By-laws. The Joburg By-laws include the provisions that we suggested be incorporated within this EMM By-law.

In these By-laws, unless the context otherwise indicates:-

**“authorised Official”** means an Official of the Council who is authorised to do, or to cause to be done any act or function in terms of these By-laws, and includes a member of the Municipal Police force;

**“lake/dam”** means body of water impounded on a stream or river;

**“Council”** means the Ekurhuleni Metropolitan Municipality or any other Committee or official acting in terms of delegated authority approved in terms of [Sections 59 - 65](#) of the Local Government: Municipal Systems Act, Act 32 of 2000, and exercising any functions or duties vested in the Council in relation to these By-laws;

**“mini-bus”** means a motor vehicle designed or adapted, solely or principally, for the conveyance of more than nine (9) persons, but not more than sixteen (16) (including the driver);

**“notice”** means an official notice drawn up by the Council and displayed by order of the Council at entrances to or at conspicuous places in or on a park and to which the Council shall make known provisions and directives adopted by it in terms of a By-law;

**“park” or “public open space”** means any land which is owned by an organ of state or over which an organ of state has a real right and which is controlled and managed by the Council and is set aside in terms of any law, zoning scheme or spatial plan, for the purpose of public recreation, conservation, the installation of public infrastructure or agriculture and includes parks, open spaces, pleasure resorts, recreation areas, gardens, squares, reserves and bird sanctuaries, within the Council and being held by the Council, and includes all buildings, grounds and spaces situated in such areas;

**Comment [CW2]:** This definition has been adapted in accordance with the definition of “public open space” in the JHB Public Open Spaces By-laws.

**“passenger bus”** means a motor vehicle designed or adapted for the conveyance of more than sixteen (16) persons (including the driver);

**“public holidays”** means all holidays, declared as public holidays in terms of the Public Holidays Act, 1994 (Act 36 of 1994), as amended, or declared by the State President to be a public holiday by virtue of the powers conferred upon him in terms of the said Act;

**“refundable deposit”** means the deposit mentioned in the tariff, determined by the Council from time to time and which shall be refunded, on demand, provided, that no damage has been caused to any facility of the Council, its environment or the recreation grounds during the period within which the facilities, environment, or recreation grounds are used;

**“swim”** means the entering into the water for the purpose of swimming, or to windsurf or participate in other similar water activity or the accidental contact with the water while participating in such water sport;

**“motor cycle”** means a motor vehicle which has two wheels and includes any such vehicle having a side-car attached;

**“motor quadracycle”** means a motor vehicle other than a tractor, which has four wheels and which is designed to be driven by the type of controls usually fitted to a motor cycle;

**“motor tricycle”** means a motor vehicle, other than a motor cycle or tractor which has three wheels and which is designed to be driven by the type of controls usually fitted to a motor cycle;

**“motor vehicle”** means any self-propelled vehicle and includes:-

- (a) a trailer; and
- (b) a vehicle having pedals and an engine or an electric motor and an internal part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor, but does not include:-

- (i) any vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or
- (ii) any vehicle with a mass not exceeding 230 kilograms and specially designed and constructed and not merely adapted for the use of any person suffering from some physical defect or disability and used solely by such person.

## **2. Control of parks**

All land laid out or which may hereafter be laid out or proclaimed as public parks, within the Council shall, be maintained and used solely for the purpose for which it was laid out or otherwise reserved.

## **3. Entrance to a park**

- (1) No person shall be present in a park outside the hours indicated on a notice at or within the vicinity of the park;
- (2) No person shall enter or leave a park except through the gates provided for that purpose;
- (3) No person shall on any day on which an entrance fee is charged enter the park unless he has paid the entrance fees determined by the Council
- (4) Any person being present in the park shall on request of an authorised official produce proof of payment of the entrance fee if such entrance fee applies.
- (5) The Council may suspend the payment of entrance fees on any specific day whereon a public function is being held,
- (6) The Council may suspend the payment of an entrance fee on any specific day or days as it may deem fit.

## **4. Personal behaviour**

In keeping with Chapter 2 of the Bill of Rights of the Constitution of the Republic of South Africa, 1996, no person shall:-

- (1) fire any fire-arm or pellet gun, discharge any firework, catapult or sling, throw any stone, stick or other missile, use any squirt, syringe or other instrument, or do anything which may endanger or be deemed a nuisance, objectionable or an annoyance to the public;
- (2) brawl, fight, use profane, indecent or improper language, be intoxicated, bet, gamble, beg, lie on any seat or behave in an indecent or offensive manner, or commit any nuisance or stay in a park overnight;
- (3) use, intrude upon or attempt to intrude upon any water closet, urinal or other place of convenience provided for the opposite sex;

- (4) deliver, utter or read aloud any public speech, prayer, book or address of any kind, or sing any song or hold or take part in any public meeting or assemblage, except with the prior written consent of the Council;
- (5) contrary to a prohibitory notice, prohibiting smoking exhibited on a conspicuous place at or near the entrance of any place or building on a square or other open space, park or other enclosed space, smoke in such place or building;
- (6) obstruct, disturb, interrupt or annoy any person in the proper use of any park;
- (7) refuse to leave any park or any other enclosed space at, or after the time of closing the gates, when requested to do so by any authorized officer of the Council, or unlawfully remain therein after the gates or fences or railings have been closed, or enter or leave other than through one of the authorized means of ingress or egress;
- (8) refuse to give his or her name and address when asked to do so by a duly authorised officer of the Council during his or her presence in a park;
- (9) make a nuisance of themselves by the consumption of alcohol or other intoxicating substance, to any other users of a park;
- (10) consume or sell any alcohol or prohibited drugs in any park without the applicable authorization approved by the Ekurhuleni Metropolitan Municipality;
- (11) conduct any sexual activities of whatever nature in any public park or open space. Soliciting will not be permitted.

## **5. Damage**

No person shall:-

- (1) remove, mark, damage any fountain, statue, monument, bust, post, chain, railing, fence, seat barrier, gate lamp post, notice board or plate, watch box, house, building, shed, urinal, water closet, flag or other matter or thing, or deface or disfigure the same by pasting or affixing in any way any bills, placard or notice, or by cutting, writing, stamping, printing, drawing, or marking thereon;
- (2) cut, remove, dig up, fell, burn, pluck, break, climb up or upon or cause damage to timber or to any tree, shrub, brushwood, fencing post, pole, fern, turf, grass, fruit, flower or plant;
- (3) take, dig, cut, break, damage or remove any gravel, sand, sod, clay, mould, soil, water or other substance;
- (4) light any fire, except at braai facilities, or burn or do any act, which might cause any timber, brushwood, plant, paper, rubbish or other substance to burn;
- (5) go into, or attempt to go into any enclosed place, plantation or garden or any temporary enclosure, or walk on any flowerbed or any grass plots, on which walking may be prohibited;
- (6) commit any encroachment or make or attempt to make any enclosure;
- (7) erect or place any post, railing, fence, pole, peg, spike, tent, booth, screen, stand, swing or other building, erection or obstruction of any kind whatsoever without the consent of the Council in writing;
- (8) deposit or leave any refuse, rubbish, paper, dead or other matter or thing in the park, other than in the place provided for such matter;
- (9) wash clothes or other things in any pond, fountain or ornamental water feature, stream, river or otherwise pollute any water therein;
- (10) bathe in any pond, fountain, lake, stream, river or ornamental water feature.

## **6. Entertainment**

No person shall:-

- (1) sell or offer or expose for sale or hire any commodity or article or distribute any pamphlet, book, handbill, or other printed or written matter without prior written consent of the Council;
- (2) play or make preparation to play cricket, football, or any other game, except on the allocated places and at the times set apart for such games by the Council;
- (3) use the entertainment apparatus such as swings, round-a-bouts, seesaws, slides or any other apparatus in a park, which has been supplied for the entertainment of children if he or she is over the age of 16 years;
- (4) play or make sounds on any musical instrument, except with the prior written consent of the Council.

## **7. Animals**

- (1) No person shall:-
  - (a) take any dog into or have any dog or other animal in any park or other enclosed public place in contravention of a notice exhibited in such park, or other enclosed public place;
  - (b) bathe or wash any dog or other animal, or allow any dog or other animal to be in any pond, fountain, stream or river or ornamental water feature;
  - (c) catch or snare birds or lay or place any net, snare or trap for the catching of birds without a permit from the Gauteng Provincial Government, Department of Agriculture, Conservation and Environment and the written consent of the Council;
  - (d) take birds' eggs or nests, or shoot or chase or attempt to shoot any bird or animal, or throw any stone or stick or other missile, with intent to injure or catch any bird or animal, or in any way interfere with any fish, water-fowl or other animal;
  - (e) bring into a park or ride in a park on a horse, mule, donkey or any other farm animal except with prior written permission of the Metro which written permission shall be produced on request by any authorised official.
- (2) In any park where dogs are allowed, such dogs should be kept on leashes. Any person in charge of a dog in a park, shall remove any faeces left by such dog.
- (3) Except in the event of a blind person being lead by a guide dog, in which instance the faeces will be removed by the maintenance team of the department.
- (4) The owner of a dog or other animal or the person who has a dog or other animal in his custody or under his supervision shall take care that such a dog or other animal does not attack or terrify any person, animal or bird in a park without reasonable cause.
- (5) The Council may impound any dog or other animal found wandering at large and uncontrolled in a park.

## **8. Vehicles**

- (1) No person shall:-
  - (a) drive, draw or propel any cycle, or vehicle other than a wheeled chair, or a perambulator drawn or propelled by hand and used solely for the conveyance of a child or children or invalid, in any park, except in the places and at the times which shall be defined by the Council's By-laws or by notices affixed or set up at or near the entrance to any such park;
  - (b) drive any motor cycle, motor quadracycle, motor tricycle or motor vehicle, that may be set aside by notice at a specified rate;

- (c) draw, propel, stand or place any wheeled motor vehicle, motor cycle or cycle or any machine whatsoever upon or over any part of a flowerbed or lawn;
- (d) use any part of any park for the cleaning of any motor cycle, motor quadracycle, motor tricycle or motor vehicle, clothes or other articles;
- (e) carry out repairs or maintenance to any motor vehicle in a park or other area;
- (f) park a motor vehicle or motor cycle, motor quadracycle or motor tricycle in a park at any other place than at the parking areas specially set aside for motor vehicles;
  
- (g) drive any motor cycle, motor quadracycle, motor tricycle or motor vehicle, in a park while he is under the influence of alcohol or any other drug.
  
- (2) The council reserves the right to permanently or temporarily close any road or walkway in a park.

#### **9. Trading**

- (1) No refreshment or drinks shall be hawked or offered for sale in a park except in the rooms, buildings and places assigned by the Council and by persons or bodies properly authorised thereto by the Council.
- (2) No peddler or street vendor shall be allowed to trade in a park without prior permission from the Council.
- (3) No person shall beg in a park.
- (4) No person shall gamble, participate or present gambling or games of chance in a park.

#### **10. Meetings and orchestral performances**

No person shall:-

- (1) present or participate in an orchestral performance in a park without written permission of the Council and on such conditions as it may determine;
- (2) present or participate in a sermon, lecture, public discussion or a meeting without the written permission of the Council.

#### **11. Camping**

No person shall erect any structure in a park without the permission of the Council in terms of its tariffs. No camping overnight is permitted in a park.

#### **12. Lake and dam waters**

(1) No person shall:-

- (a) swim in a lake, dam, stream or river except with the permission of the Council on special occasions, nor shall he wash himself, his clothes or any other item in a lake, dam, stream or river;
- (b) launch a boat, canoe, raft or any other floating object, irrespective of its propulsion mechanism, onto a lake or dam except from those Sections of a lake shore specifically set apart by the Council for that purpose in consultation with existing aquatic clubs.

(2) The use of a lake or dam surface shall be subject to such conditions as the Council or the bodies to whom the Council relinquished the control determines.

### **13. Angling**

(1) No person shall:-

- (a) angle without a permit to angle issued by the Gauteng Provincial Government, Department of Nature Conservation, Agriculture and Environment;
- (b) angle in a lake or dam except from such portions of the lake shore that the Council from time to time specially sets aside for that purpose;
- (c) angle in a lake or dam before or after times specified by the Council;

(2) The Council reserves the right to temporarily close the angling areas or any part thereof at its own discretion.

(3) The Council reserves the right to delegate the control of angling to a third party at its discretion.

### **14. Closing of parks to the public**

(1) Subject to the provisions of the Local Government Ordinance 17 of 1939, the Council reserves the right to close a park or part thereof or to limit the use thereof to a particular group or organisation temporarily or permanently.

(2) The Council shall, by notices posted at or near the entrance gates, indicate the hours during which any park or enclosed space is closed to the public and may, for any special purpose close any park or closed space, or any part thereof, or any building therein, to the public for such time as it may from time to time consider necessary or expedient.

(3) Applications to permanently close or sell any park within Ekurhuleni shall be presented to the Environmental Development Portfolio Committee for approval, after consultation with the relevant Ward Councillor.

(4) The Council shall be entitled to limit the number of visitors to a park or any portion thereof.

(5) That applications for the use of a park by individuals or organisations for any purpose that may in any way restrict the use of the park by the general public be submitted in writing to the Executive Director: Environmental Development at least one month prior to the event for approval, such applications also to be forwarded to the relevant Ward Councillor for information.

### **15. Penalties**

(1) A person contravening a provision of these By-laws shall be guilty of an offence and be punishable on conviction by imprisonment for a period not exceeding 6 months, or to a fine not exceeding R 2000, 00 or to both such fine and imprisonment, and in the case of continuing offences, be liable to such fine or imprisonment for each such offence, or to both such fine and imprisonment.

(2) In addition to the fines mentioned in subsection (1), a person convicted of a contravention of these By-laws must compensate the Council for any loss or damage it may have incurred as a result of the contravention. The Council may institute a claim in the appropriate court for the amount of such loss or damage.

(3) The Council may refuse entrance to a park to a person who repeatedly contravened these By-laws in which case the authorised official may forthwith remove such a person found in a park from the park notwithstanding the provisions of subsection 15(2).

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