

## PROPOSED BY-LAW RELATING TO MUNICIPAL PARKS

### 1. Purpose

The purpose of this By-law is to manage, control and regulate the admission of persons, animals and vehicles to municipal parks and recreational facilities therein, and to provide for matters incidental thereto.

### 2. Definitions

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

**“Animal”** includes any mammal, bird, fish, reptile, insect, amphibian or invertebrate;

**“Authorised Official”** means an employee the City authorized to implement and enforce the provisions of this By-law, or any appointed external service provider referred to in section 76(b) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and includes a law enforcement officer or traffic official of the City who has been declared a peace officer in terms of section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977), acting when on duty and properly identified as such;

**“Municipality/City”** means Mangaung Metropolitan Municipality established by the Provincial Notice No. 261 of 28 March 2011, issued in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

**“Municipal Manager/City Manager”** means the person appointed by the Council of the City as Municipal Manager in terms of section 54A of the Local Government Municipal Systems Act, 2000, as amended by Local Government: Municipal Systems Amendment Act, 2011 (Act No. 7 of 2011) and shall include any person acting in that position or to whom authority is delegated.

**“Council”** means the Council of the Mangaung Metropolitan Municipality or any political structure, political office bearer, councillor or any staff member acting under council’s delegated or sub-delegated power;

**“Councillor”** means the member of the Council of the Mangaung Metropolitan Municipality;

**“Manager: City Parks”** means the employee of the City in charge of municipal parks of the City;

**“Notice”** means a written notification, or a pictogram issued in terms of this By-law as set out in Schedule 1, prominently and legibly displayed at the entrance to or in any facility or part thereof to which it is intended to apply;

**“Municipal Park”** means—

(a) any botanical or other garden, playground, zoned public open space managed by the City, or a park owned or leased by the City, including any portion thereof and any facility or apparatus therein or thereon, but excluding any public road or street; and

(b) any botanical, other garden or playground which is lawfully controlled and managed in terms of an agreement by a person other than the Council;

**“Vehicle”** means any self-propelled vehicle and includes-

(a) a trailer; and

(b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto which is designated 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 electric power 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.

### **3. Delegation and Appointment of Authorised Officials**

The City Manager or Head: Social Services may delegate any of his or her powers or assign any of his or her duties in terms of this By-law to any authorised official of the City.

### **4. Number of Visitors**

4.1 The Head: Social Services may determine the maximum number of visitors who may be present at a specific time in a public park, provided that different numbers may be so determined for different parks and for different events.

4.2 The numbers contemplated in sub-clause 4.1 must be made known by the Manager: City Parks by means of a notice.

### **5. Admission to Parks**

5.1 A person who is admitted to gain access or visit a municipal park must, subject to the provisions of this By-law, observe and comply with all

notices displayed in the park or in the entrance thereto and obey any instructions given to him or her by the authorised official.

- 5.2 Should a person fail to observe and comply with a notice or any instructions referred to in sub-clause 5.1, the City shall not be liable for damage or injury suffered while such person is visiting the municipal park.
- 5.3 A municipal park is, subject to the provisions of this By-law, open to the public on the times determined by the Head: Social Services, provided that different times may be determined in respect of different public parks.
- 5.4 No person shall enter or leave an enclosed public park at a place other than that indicated for that purpose.
- 5.5 The conditions, times and places contemplated in sub-clauses 5.1, 5.2 and 5.3 shall be made known by the Manager: City Parks by means of a notice.

## **6. Entrance Fee**

- 6.1 Subject to the provisions of this By-law, every person shall have free access to a municipal park.
- 6.2 Despite sub-clause 6.1, Council may, in terms of the Tariff By-law, prescribe fees for entering a municipal park in such special circumstances as determined by it, and such fees shall be made known by means of a notice.

## **7. Dumping and Littering**

- 7.1 No person shall in a municipal park —
  - (a) dump, drop, litter, bury or place any refuse, rubble, material or any object or thing; or
  - (b) permit any dumping, dropping, littering, burying, placing of any refuse, rubble, material or any object or thing, except in a container identified for that purpose in the park.

## **8. Alcoholic Substances and Food**

- 8.1 No person shall bring into, consume, brew, store or sell in a municipal park any liquor or any other alcoholic or intoxicating substance.
- 8.2 No person shall in a municipal park, contrary to a notice, cook or prepare food of any kind whatsoever, except at places set aside for such purposes by notice.

- 8.3 The preparation and cooking of food at places set aside by notice for such purpose in or at a municipal park shall be done in a clean and sanitary manner.
- 8.4 No animal may be killed, skinned or slaughtered in a municipal park without the written consent of the Head: Social Services having first been obtained.

## **9. Alive or Dead Animals**

- 9.1 No person shall bring any dead or alive animal into a municipal park except in accordance with the directions of the Head: Social Services provided that different directions may be determined in respect of different municipal parks and different types of animals.
- 9.2 The directions contemplated in sub-clause 9.1 should be made known by means of a notice.
- 9.3 Carcasses may not be buried in a municipal park but must be disposed of at the owner's expense and in a manner approved by the Council.

## **10. Use of Parks**

- 10.1 No person shall in a municipal park without the written permission of the Head: Social Services or contrary to any conditions which the Head: Social Services may impose when granting such permission —
  - (a) arrange or present any public entertainment;
  - (b) display or distribute any pamphlet, placard, painting, book, handbill, sign, advertisement board or any other printed, written or painted work;
  - (c) arrange or hold a public gathering or procession, or any exhibition or performance;
  - (d) conduct any trade, occupation or business;
  - (e) display, sell or rent or present for sale or rent any wares or articles;
  - (f) hold an auction;
  - (g) off-load or store building or other material.
- 10.2 Subject to any other law, the written permission contemplated in sub-clause 10.1 shall be refused only if anything referred to in sub-clause 10.1(a) to (g)—

(a) is likely to give rise to —

- (i) public rioting;
- (ii) the disturbance of public peace;
- (iii) the committing of an offence;
- (iv) the committing of an indecent act;
- (v) risks that compromise safety and security; or
- (vi) a situation where a planned activity in any area of jurisdiction of the City is taking place at the same time as a planned activity in the park, and the activity planned to take place in the park is deemed to have a detrimental impact on the ability of the City to ensure safety and security;

(b) is detrimental to the public or the users of, or visitors to, the municipal park; or

(c) is likely to damage or destroy the amenities, wildlife or plant material in the park.

## **11. Trees or Shrubs in Parks**

11.1 No person other than an authorized official shall—

- (a) plant or prune a tree or shrub, or in any way cut down a tree or a shrub, in a municipal park or remove it therefrom, except with the written permission of the General Manager: City Parks;
- (b) unless permitted by a notice climb a tree growing in a municipal park or, break or damage such tree; or
- (c) in any way mark or paint any tree growing in a municipal park or attach any advertisement thereto.

11.2 Any tree or shrub planted in a municipal park shall become the property of the City.

## **13. Behaviour in Parks**

13.1 No person shall, in a municipal park —

- (a) damage, tamper with or destroy any equipment, amenity or structure;

- (b) plant, pull out, pick, damage or remove any plant, grass, shrub, bulbs, vegetation or flower;
- (c) kill, hurt, follow, disturb, ill-treat, catch, remove, translocate or release any animal or displace, disturb, destroy or remove their habitat;
- (d) use or try to use anything in such park for any purpose other than that for which it is designated;
- (e) discard any burning or smouldering object;
- (f) throw or dislodge any rock, stone or object from any mountains, slope or cliff;
- (g) behave in an improper, indecent, unruly, violent or anti-social manner or cause a disturbance;
- (h) run, walk, stand, sit or lie in a flower bed;
- (i) run, walk, stand, sit or lie on grass contrary to a notice;
- (j) lie on a bench or seating-place or use it in such a manner that prevents others from using it;
- (k) play or sit on play-park equipment, except if the person concerned is 14 years old or younger, or as permitted by a notice;
- (l) swim, walk or play in a fish-pond, fountain, stream, dam or pond;
- (m) skate on roller skates or a skateboard or similar device except where permitted by notice;
- (n) operating a gas or charcoal fired barbeque or stove;
- (o) dig, disturb or remove any mineral substance including soil, sand, gravel or rock;
- (p) damage, dig, disturb, deface, destroy or remove any fossils, bones or historical artifacts;
- (q) operate any remote control device including boats, planes helicopters or cars;
- (r) build, erect, place, create, remove or modify any structure, amenity, pathway, trail, jump or ramp;
- (s) engage in any activity which may pose a risk or in combination with other activities in the area of jurisdiction of the City.

13.2 Notwithstanding sub-clause 13.1, the Head: Social Services may, by notice, and subject to such conditions as he or she may deem necessary, authorise or permit any of the actions contemplated in sub-clause 13.1.

#### **14. Interference with Water**

14.1 No person may in a municipal park—

- (a) misuse, remove, pollute or contaminate any water source, water supply or waste water;
- (b) interfere with or obstruct the flow of any river or seasonal wetland; or
- (c) drain or redirect any water from private land.

#### **15. Admission of Vehicles**

15.1 No person may bring into a municipal park any truck, bus, motorcar, motor

cycle, bicycle, quad bike, motor tricycle, or any other vehicle, craft, hot air balloon or aeroplane, whether driven by mechanical, animal, natural or human power, supermarket or other trolleys, except in accordance with the written permission of the Head: Social Services provided that different requirements or conditions may be determined for different municipal parks and for different vehicles, crafts or aeroplanes.

15.2 The Head: Social Services may determine the speed limit applicable in a municipal park, provided that different speed limits may be determined for different municipal parks and for different vehicles, crafts or aeroplanes.

15.3 The requirements or conditions contemplated in sub-clause 15.1 and the speed limit contemplated in sub-clause 15.2 shall be made known by a notice by the Head: Social Services.

#### **16. Playing of Games**

16.1 No person may play or conduct any game of any nature that will cause –

- (a) disturbance or potentially disturb; or
- (b) injury to other park users except at places set aside for that purpose by notice and in accordance with the directions of the Head: Social Services.

#### **17. Unbecoming Gestures or Language**

17.1 No person may in a municipal park —

- (a) perform an act which is indecent or conduct himself or herself improperly by exposure of his or her person or otherwise, or make improper gestures or incite or urge someone to perform a disorderly or indecent act;
- (b) use foul, lewd or indecent language;
- (c) write, paint, draw or in any way make a lewd, explicit or immoral figure, writing, drawing or representation; or
- (d) enter or use a toilet facility intended or indicated as such by notice for members of the opposite sex, provided that this shall not apply to children below the age of seven accompanied by an adult.

## **18. Powers to Investigate**

18.1 An authorised official may —

- (a) enter at any time upon in a municipal park to conduct an investigation thereat in order to determine whether the provisions of this By-law are complied with;
- (b) for the effective exercising of any power of any function or duty assigned or granted to him or her, an official can take along an interpreter for communicating a message in an understandable language;
- (c) give instructions to or direct the public, for the purposes of this By-law, to act in a specific manner whilst at the public park.

## **19. Amendment, change and addition of a Notice or Pictogram**

19.1 The Head: Social Services may, subject to the provisions of this By-Law, amend, change or add any notice or pictogram in the park.

19.2 The Head: Social Services must, within five (5) working days after an amendment, change or addition of a notice or pictogram as contemplated in sub-clause 19.1, display such amended, changed or added notice or pictogram in the relevant park or at the entrance thereto.

## **20. Offences and Penalties**

20.1 Any person who contravenes or fails to comply with a notice issued in terms of, or a condition imposed under, or any other provision of, this By-law, shall be guilty of an offence and if convicted shall be liable for a fine not exceeding R 3 000, 00 or imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.



20.2 In addition to imposing a fine or imprisonment in terms of sub-clause 20.1, a court may order any person convicted of an offence under this By-law —

(a) to remedy the harm caused; or

(b) to pay damages for harm caused to another person or to property which order shall have the force and effect of a civil judgment.

## **21. Conflicting Laws**

If there is any conflict between a provision in this By-law and a provision of any other by-law of the Municipality, the provisions of this By-law shall prevail to the extent of the inconsistency.

## **22. Repeal**

Any by-laws relating to municipal parks adopted by the Council or any municipality now comprising part of the City is repealed from the date of promulgation of this By-law.

## **23. Short Title and Commencement**

This By-law is called **Mangaung, Municipal Parks By-law** and comes into operation on the date of promulgation thereof in the Provincial Gazette.