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LOCAL AUTHORITY

Stellenbosch Municipality: Nature Areas By-law 2

STELLENBOSCH MUNICIPALITY

NATURE AREAS BY-LAW

Stellenbosch Municipality, in terms of Section 156(2) of the Constitution of the Republic of South Africa, 1996, hereby enacts as follows:

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CHAPTER 1: INTRODUCTORY PROVISIONS

1. Definitions

In this by-law, unless the context indicates otherwise –

“adverse effect” means any actual or potential impact on the environment that impairs, or would impair the environment or any aspect of it to an extent that is more than trivial or insignificant;

“aircraft” means any object driven or propelled, or which glides on or over the surface of a nature area, wholly or partly by mechanical or electrical power, in order to move through the airspace above a nature area;

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

“authorized official” or **“ranger”** means an employee of the Stellenbosch Municipality 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;

“the Act” means the National Environmental Management: Protected Areas Act (57 of 2003);

“biological resource” means any resource consisting of;

- (a) a living or dead animal, plant or other organism of an indigenous species;
- (b) a derivative of such an animal, plant or other organism, as defined in Section 1 of the Biodiversity Act or
- (c) any genetic material of such animal, plant or other organism, as defined in Section 1 of the Biodiversity Act;

“bioprospecting” has the meaning assigned to it in Section 1 of the Biodiversity Act;

“code of conduct” means a written set of specific rules for the use of a specific nature area by users which are not contrary to this By-Law;

“Council” means the council of the Stellenbosch Municipality, being a Council as provided for in terms of Section 18 of the Local Government: Municipal Structures Act (117 of 1998), or any committee, any sub-council or councillor of Council, acting under delegated or sub-delegated authority of the Council.

“domestic animal” means any horse, pony, mule, donkey, cattle, pig, sheep, goat, camel, reptile, dog, cat, rabbit, and any other livestock, exotic animal or pet;

“management plan” means a plan approved by the MEC in compliance with Section 39(2) of the Act; whereas a management plan has been prepared for a nature area, this means a plan approved by the Council of Stellenbosch Municipality;

“Municipality” means the Municipality of Stellenbosch established in terms of Section 12 of the Local Government: Municipal Structures Act (117 of 1998), Provincial Notice 488 dated 22 September 2000, and includes any political structure, political office bearer, councillor, duly authorized agent thereof or any employee thereof acting in connection with this By-Law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

“nature reserve” means an area proclaimed, protected or published in any government or provincial gazette in terms of any law for the purposes of nature conservation in Stellenbosch Municipality, and which is managed by Stellenbosch Municipality or designated management authority;

“nature area” means an area owned by the Municipality, whose current use or intended purpose includes that of nature and/or water resource conservation and/or management, encompassing both a proclaimed nature reserve and an unproclaimed natural area;

“NEMA” means the National Environmental Management Act (107 of 1998);

“notice” includes a written notification or prohibition, determined by Stellenbosch Municipality, being prominently displayed in writing, optionally combined with the use of pictograms, or a notice board erected at or near a nature area point of entry or exit, 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 nature area or amenity connected therewith;

“open access areas” means a portion of a nature area which can be entered and traversed by any means where entry to such portion of the nature area is not restricted or controlled by any access point or gate;

“operating times” means the period of time between and including the opening time and closing time of a nature area as depicted on a notice board;

“overnight” means to be present and includes camping in designated areas in a nature area between sunset and sunrise;

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

“Protected Area Advisory Committee” (PAAC) means a committee established in terms of the Regulations for the Proper Administration of Nature Reserves (Government Gazette No. 35021, GNR.99 of 8 February 2012) made in terms of the Act;

“recreational area” means any area set aside or designated in terms of the management plan for general or specific recreational use by the public inside a nature area;

“recreational water” means any inland water body, lake, river, stream, wetland, vlei, dam or portion thereof, which is owned or managed by Stellenbosch Municipality, and includes the verges or banks of such areas, against which water may periodically or seasonally rise, and which is also owned or managed by the Municipality;

“Remotely Piloted Aircraft System” (RPAS) means an unmanned aircraft which is either autonomous or is piloted from a remote pilot station and includes drones and model aircraft.

“species” means a kind of animal, plant or other organism that does not normally interbreed with individuals of another kind, and includes any subspecies, cultivar, variety, geographic race, strain, hybrid or geographically separate population;

“specimen” means—

- (a) any living or dead animal, plant or other organism;
- (b) a seed, egg, gamete or propagule or part of an animal, plant or other organism capable of propagation or reproduction or in any way transferring genetic traits;
- (c) any derivative of any animal, plant or other organism; or
- (d) any goods which—
 - (i) contain a derivative of an animal, plant or other organism; or
 - (ii) from an accompanying document, from the packaging or mark or label, or from any other indications, appear to be or to contain a derivative of an animal, plant or other organism;

“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;

“vehicle” means anything defined as a motor vehicle in terms of the National Road Traffic Act (93 of 1996); or any conveyance designed or adapted principally to travel on wheels or tracks;

“water area” means the water and the bottom or floor of any natural lake, river or stream, dam, impoundment or wetland or any part thereof, situated within a nature area, and includes the water and the land between the lowest line and the highest line to which the water-level of such a natural lake, river or stream, dam, impoundment or wetland or any part thereof may recede or rise at any time;

“written authorization” means written consent issued by an authorized official or ranger of the Municipality in terms of this By-Law, and includes any permit issued in terms of Section 14(1) or identification card issued in terms of Section 5(2).

2. Application

This By-Law –

- (a) applies to any area which is proclaimed or recognized as a protected area in terms of the Act; or managed as a nature area;
- (b) must be interpreted and applied in accordance with the principles and provisions of the National Environmental Management Act (107 of 1998), the Stellenbosch Environmental Management Framework and the Environmental Management Plan in force in a particular area.

CHAPTER 2: POWERS AND RESPONSIBILITIES OF THE MUNICIPALITY

3. Functions

The municipality may in managing a nature area –

- (1) manage breeding and cultivation programmes, and may reserve areas in a nature area as breeding places and nurseries;
- (2) sell, exchange or donate any animal, plant or other organism occurring in a nature area, or purchase, exchange or otherwise acquire any indigenous species which it may consider desirable to re-introduce into a specific nature area;

- (3) undertake and promote research;
- (4) control, remove or eradicate any species or specimens of species which it considers undesirable to protect and conserve in a nature area or that may negatively impact on the biodiversity of the nature area;
- (5) carry out any development and construct or erect any infrastructure necessary for the management of a nature area, subject to an environmental authorization in terms of Section 24 of NEMA, applicable By-Laws and the applicable management plan;
- (6) allow visitors to a nature area;
- (7) take reasonable steps to ensure the security and well-being of visitors and staff;
- (8) provide accommodation and facilities for visitors and staff;
- (9) carry on any business or trade or provide other services for the convenience of visitors and staff; authorize any person, subject to relevant conditions as it may determine, to—
 - (i) carry on any business or trade, or provide any service, which the management authority may carry on or provide in terms of this section; and
 - (ii) provide the infrastructure for such business, trade or service;
- (10) by agreement with—
 - (i) other municipal departments, provide any service in a nature area for the management of the nature area, which the Municipality may be mandated to provide in terms of legislation; or
 - (ii) any other organ of state, perform a function in a nature area which that organ of state may perform in terms of legislation; and
- (11) issue Notices in terms of Section 6.

4. Commercial, community and visitor activities

- (1) The Municipality may, in terms of a management plan, designate a part of a nature area, as an area in which a particular activity may be undertaken by visitors to a nature area, communities or interest groups, and must display a notice at the entrance to the nature area in which such area is described, provided that the activity does not compromise the purpose for which the nature area was established or is used.
- (2) The Municipality may, in terms of a management plan, designate a part of a nature area, as an area in which a commercial activity may be undertaken by an authorized vendor, and must display a notice at the entrance to the nature area in which such area is described and at the place the commercial activity is undertaken;
- (3) The Municipality may, in consultation with the PAAC's, user or interest groups and other interested and affected parties develop codes of conduct for specific activities authorized within a nature area.

5. Rangers

- (1) The Municipality may appoint rangers for a nature area and set in writing any prerequisites, terms, conditions or restrictions on any such appointments.

- (2) The Municipality must issue any duly appointed ranger with a written authorization and an identification card.
- (3) The ranger must, when performing any responsibility with regards to this By-Law, have in his/her possession their identification card or written authorization.
- (4) A ranger may issue verbal or written instructions to visitors relating to compliance with this By-Law in terms of the conditions of their written authorization.

6. Notices

- (1) In relation to a nature area, the Municipality may from time to time and by means of a notice displayed at the entrance to or at, other relevant places of a nature area—
 - (a) designate any land or water area as a recreational area;
 - (b) designate any land or water area for a purpose other than recreation;
 - (c) prohibit or restrict the use and access of any person, vehicle, vessel, domestic animal, species or specimen to a specific land or water area or part thereof; or
 - (d) designate the times and conditions during which and subject to which any sports or other activities may be practiced or performed on such land or water area.
- (2) A notice may impose conditions in relation to the participation in or undertaking of any activity in a nature area and the Municipality may vary or revoke a notice at any time by a subsequent notice.
- (3) The Municipality 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 attached as Annexure A.
- (4) The Municipality may erect public notice boards within or near the nature area to notify interested and affected parties of permissible activities and prohibitions in terms of this By-Law.
- (5) In addition, the Municipality 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 nature area; or
 - (c) use public meetings, PAAC meetings or other means of bringing information to the attention of interested and affected persons.

7. Recreational areas inside nature areas

- (1) The Municipality may, within a recreational area, display any notice required under this By-Law.
- (2) In relation to recreational areas, the Municipality may prominently display a notice at an entrance to a recreational area indicating—
 - (a) the opening and closing times of that recreational area; and
 - (b) any rules made by the management authority in relation to that recreational area.

CHAPTER 3: USE OF BIOLOGICAL RESOURCES IN NATURE AREAS

8. Use of biological resources

The Municipality may, upon application and subject to the provisions of a management plan, by means of the granting of a non-transferable written authorization or the entering into a written agreement, with the conditions it deems necessary, grant to any person the right to the sustainable, monitored use of identified biological resources in a nature area.

9. Natural resource utilization

The Municipality may upon application and subject to the provisions of a management plan, by means of the granting of a written authorization or the entering into a written agreement, and on the conditions it deems necessary, grant to any person or group the right to the sustainable, monitored use of identified natural resources in a nature area.

10. Authorization for use of biological- or natural resources

- (1) A written authorization or written agreement as contemplated in Sections 4, 8 or 9, must—
 - a) not be in conflict with the purpose for which a nature area was established;
 - b) define the land or water area within which the use of the biological- or natural resources is granted;
 - c) indicate the period for which the right contemplated in Sections 4, 8 and 9 is granted; and
 - d) determine the limits to the use of the biological resources.
- (2) The Municipality may demarcate the land or water area contemplated in subsection 10(1)(b) in a manner it deems fit.
- (3) An authorization granted in terms of Sections 4, 8 or 9 may not interfere with the exercise of any authorization which has been granted to another person in respect of the area contemplated in subsection 10(1)(b).
- (4) An authorization granted in terms of Sections 4, 8 or 9 must include a stipulated notice period for the expiry and for the termination of the right or amendment of the conditions granting the right.
- (5) The Municipality may cancel an authorization granted in terms of Sections 4, 8 or 9 in respect of the area or part thereof, if such area or part thereof is required for conservation purposes or for purposes approved by the Municipality.
- (6) The Municipality may cancel an authorization granted in terms of Sections 4, 8 or 9 if the conditions set by the Municipality are not complied with by the relevant person or group, or if the resource or any other component of the nature area is threatened.
- (7) The Municipality may instruct a holder of an authorization contemplated in Sections 4, 8 or 9 to cease all activities immediately, and take any remedial action if the aforementioned holder of the written authorization is found or deemed to be in contravention of any conditions stipulated in the written authorization.
- (8) The Municipality may at any time cancel or suspend such authorization contemplated in Sections 4, 8 and 9 in the event of an emergency, disaster, threat to life or safety, threat to

the environment, or in any circumstance where the authorized official deems the ongoing activity to be detrimental in any way to the nature area.

CHAPTER 4: ACCESS TO NATURE AREAS

11. Access to nature areas by user of biological- or natural resources

- (1) The holder of a written authorization granted in terms of Sections 4, 8 or 9 above may, subject to any condition contained in the written authorization, use a road or path identified by the municipality, for the reasonable exercise of a written authorization to use biological resources- or natural resources: Provided that—
 - (a) the Municipality may close any access road or limit the use thereof for management purposes;
 - (b) if a holder of a written authorization fails to remove or repair any obstruction on an access road caused as a result of the exercise of a written authorization, the Municipality may undertake such removal or repair, and recover the cost in this regard from the holder of the written authorization;
 - (c) the Municipality may impose restrictions on the type of vehicle, machinery or equipment which is permitted on an access road in order to prevent any environmental or other damage;
 - (d) the holder of a written authorization must keep every road, track or footpath used, reasonable wear excluded, in a good driving condition; and
 - (e) a holder of a written authorization may not create or construct any new access road for the removal of biological resources or for any other reason create, construct, lengthen or otherwise expand any new or existing road, track or footpath, without written authorization from the Municipality.

12. Admission

- (1) A person who has been granted entry into a nature area may be allowed admission only to a specific area and at designated times as determined by the Municipality.
- (2) The Municipality may close a nature area or any part of a nature area—
 - (a) if, in the Municipality's opinion—
 - (i) the closure is necessary or desirable for the management of the nature reserve or nature area;
 - (ii) the closure is necessary for the Municipality to perform any of its functions in terms of the Act or this By-Law or any maintenance actions; or
 - (iii) the safety of persons may be compromised;
 - (b) if a fire-ban is in force in an area that includes all or part of the nature area;
 - (c) if the risk of uncontrolled fire in the nature area is, in the Municipality's opinion, extreme;
 - (d) if the Municipality's staff necessary to patrol or secure the nature area are unavailable; or
 - (e) if, in the Municipality's opinion, it is in the interest of public safety to close the nature area.
- (3) No person may, without the written authorization of the Municipality, enter or remain in a nature area, or part thereof, that has been closed in terms of subsection 12(2).

13. Points of entry and exit

- (1) No person may, other than in open access areas of a nature area, or subject to the provisions of Section 11, enter or leave a nature area at any place other than through the designated points of entry or exit, without the written authorization of the Municipality.
- (2) Where a public road, pathway or cycle path traverses a nature area—
 - (a) no written authorization is required by a person to travel through the nature area on such public road, pathway, or cycle path to a destination outside the nature area in question; and
 - (b) no person may in the course of traversal—
 - (i) leave such public road, pathway or cycle path;
 - (ii) enter into a nature reserve or nature area from such public road, pathway or cycle path other than in compliance with Section 12(1).
- (3) No person may fly an aircraft, over a nature area, at a height below 1500ft above ground level without the written authorization from the Municipality.
- (4) No person may land, or attempt to land, an aircraft in a nature area without the prior written authorization from the Municipality.
- (5) No person may fly a RPAS over a nature area or land such RPAS in a nature area without the written authorization from the Municipality.
- (6) Subsection 13(4) and (5) does not apply—
 - (a) in the case of an emergency; or
 - (b) to a person acting on the instructions of a ranger.
- (7) An aircraft performing an emergency landing as per subsection 13(6)(a) above, must report such emergency landing and the nature thereof, in writing, to the Municipality before the aircraft is removed from the nature area, within a reasonable time, depending on the nature of the emergency.

14. Proof of entry

- (1) Where a written authorization, or entry permit, is required for entry to a nature area, a person who enters the nature area in a vehicle or on foot, must ensure that the written authorization or entry permit is in his or her possession, and available for inspection at all times until he or she leaves the nature area.
- (2) Where a written authorization is issued for overnighting in a nature area, the written authorization must be displayed at all times in the vehicle in accordance with subsection 14(3) while he or she is overnighting in or near the vehicle.
- (3) For purposes of this By-Law a written authorization contemplated in subsection 14(2) is displayed in a vehicle only if—
 - (a) the written authorization is displayed on the inside of the windscreen on the side of the vehicle opposite to the driver's position; or
 - (b) where, because of the design of the vehicle, it is not possible to comply with paragraph (3)(a) the written authorization displayed in a permanent position in or on the vehicle, so that the written authorization is facing outwards from the vehicle and can be easily seen and read by a person outside the vehicle.

15. Safe entering

No person may enter or take a vehicle into a nature area, onto a place, road, river or water area in an unsafe, reckless or negligent manner.

16. Staying overnight

No person may stay overnight in a nature area—

- (a) without the written authorization of the Municipality;
- (b) without having first reported to the Municipality or to a ranger assigned by the Municipality to perform escort duty; or
- (c) at any place other than a place designated for such activity by the Municipality.

17. Times of entry and travel

- (1) Nature areas are open from sunrise to sunset, unless indicated otherwise by means of a notice at designated points of entry and at open access areas.
- (2) No person may, without the written authorization of the Municipality, enter, leave or travel in a nature area at any time other than the times determined by the Municipality, except in open access areas.

18. Maximum number of visitors

- (1) The Municipality may determine a maximum number of visitors who may be present at a specific nature area at a given date and time;
- (2) The number of visitors contemplated under subsection 18(1) must be published by the Municipality by means of a notice.

CHAPTER 5: RESTRICTED ACTIVITIES**19. Activities which may have an adverse effect in a nature area**

- (1) No person may, without the written authority of the Municipality, in a nature area—
 - (a) introduce any non-endemic specimen, or part thereof to a nature area;
 - (b) convey, move or otherwise translocate any specimen;
 - (c) intentionally disturb any species or non-endemic specimen;
 - (d) feed any species or specimen;
 - (e) use any recording of any species or specimen or the imagery or scent of a species or specimen to attract animals;
 - (f) lure, bait or attract by any means or for any purpose or intention any species or specimen;
 - (g) cut, damage, remove or destroy or be in possession of any plant or any part thereof, including dry wood;
 - (h) hunt, capture, injure or kill any living animal by any means, method or device whatsoever, including searching, pursuing, driving, lying in wait, ensnaring, luring, alluring, discharging a missile or projectile or injure with intent to hunt, catch, capture or kill any such animal;
 - (i) gather, collect or pluck any specimen;
 - (j) pick parts of, or cut, chop off, uproot, damage or destroy, any specimen;
 - (k) possess or exercise physical control over any specimen;

- (l) grow, breed or in any other way propagate any specimen or cause it to multiply;
 - (m) sell or otherwise trade in, buy, receive, give, donate or accept as a gift, or in any way acquire or dispose of any specimen; or
 - (n) angle, attempt to angle, catch or attempt to catch fish other than in an area designated for such purpose.
- (2) No person within a nature area may—
- (a) intentionally or negligently cause pollution;
 - (b) deface cultural heritage resources; or
 - (c) harm, or cause death to any individual specimen or population of any species without the prior written authorization of the Municipality.
- (3) No person may, within a nature area place, throw, dump, or release into the environment any refuse, rubbish, used containers, effluent, toilet waste, or any objectionable material in areas other than those designated fit for this purpose by the Municipality.
- (4) No person may spoil or ruin any equipment, furniture or structure located within a nature reserve or nature area by affixing thereto, in any way, papers, placards or notices, or by cutting, writing, stamping, painting, drawing or marking thereon;
- (5) No person may start or keep a fire or commit any acts whereby a fire may be caused within a nature area, except an official or person duly authorized to do so;
- (6) No person may consume alcohol or drugs within a nature area, nor enter a nature area under the influence of alcohol or drugs.

20. Specified activities

- (1) No person may undertake any of the following activities in a nature area except with written authorization from the Municipality and in accordance with an approved environmental management plan for the specified activity:
- (a) film and simultaneously transmit photographic images using a webcam or other image recording or transmitting device, including trail cams;
 - (b) conduct tours for profit;
 - (c) conduct any kind of competition;
 - (d) sell or hire goods or the offering of goods for sale or hire;
 - (e) provide or offer to provide any service for a fee or reward;
 - (f) an activity of any kind for the purpose of fund raising, personal gain, making a profit, or advertising;
 - (g) an organised and hold an event, including sporting or cultural events;
 - (h) record visual images of animals for any virtual hunting or other such activity;
 - (i) conduct any type of training, exercises or simulations; or
 - (j) environmental education programmes and activities.

21. Research and monitoring

- (1) No person may in a nature area, without written authorization of the Municipality, carry out scientific or general research or undertake monitoring projects.
- (2) Any person undertaking scientific or general research or monitoring projects in a nature area must—

- (a) submit a written proposal to the Municipality that describes the purpose and methodology of the research or monitoring;
- (b) be in possession of all required permits and authorizations in terms of any other law;
- (c) comply with all specified conditions in the written authorization;
- (d) submit all data and information gathered, to the Municipality, in a format determined and at stages of the project specified by the Municipality; and
- (e) submit copies of all reports and findings to the Municipality upon completion.

22. Interference with substrates or cultural objects

- (1) No person may, except with the prior written authorization of the Municipality and subject to any other applicable laws—
 - (a) remove from a nature area any—
 - (i) soil, sand, gravel, pebbles, stone, rock or mineral or similar material;
 - (ii) wood, mulch or other dead vegetation;
 - (iii) fossil, archaeological remains or cultural artefacts;
 - (iv) animal faecal matter;
 - (b) dig any soil or similar material in a nature area; or
 - (c) disturb in a nature area –
 - (i) wood, mulch, peat or other dead vegetation or animal;
 - (ii) termite mounds, bees' nests, spider webs, birds' nests or animal burrow;
 - (iii) fossil, shell midden, archaeological remains or paleontological specimens or meteorites;
 - (iv) any object or material that is or was used for any ritual or other practice; or
 - (v) any object that has historical or cultural significance.

23. Bioprospecting

No person may undertake any manner or form of bioprospecting in a nature area without the prior written authorization of the Municipality other than subject to such conditions as determined by the Municipality.

24. Buildings and improvements

- (1) Building developments and improvements in a nature area are subject to prior approval and written authorization from the Municipality, and any relevant legislation.
- (2) No person may in a nature area, without prior written authorization of the Municipality, erect, construct or transform or cause to be erected, constructed or transformed any building, structure (temporary or permanent) or any other improvement, including but not limited to a building or structure of any kind, jetty, dock, pier, landing stage, landing float, anchor buoy, raft, fence or any obstruction, bridge, pontoon, road or crossing.

25. Land and airspace

- (1) No person may in a nature area, except with the prior written authorization of the Municipality—
 - (a) engage in the sport of climbing rock faces;
 - (b) engage in the sport of paragliding, parachuting or abseiling;
 - (c) land or take off in, or attempt to land or take off in, any aircraft, helicopter, glider, hang glider, paraglider or hot air balloon;

- (d) launch or fly a hot air balloon;
- (e) fly RPAS or gliders;
- (f) engage in the sport of any kind of boarding, including sandboarding, windsurfing, kitesurfing or sailboarding
- (g) operate any motorised vehicle for recreational purposes;
- (h) launch or propel, a missile or flare into the airspace above a nature area unless such activity is a bona fide emergency; or
- (i) possess, ignite or use any fireworks.

26. Water areas

- (1) No person may, without the written authorization of the Municipality, launch, or use a vessel on a dam, reservoir, lake, river or other body of water in a nature area unless the water has been set aside by the Municipality for the use of vessels.
- (2) No person may carry out any repairs, servicing, testing, painting of any vessel in a water area in a nature area unless the prior written authorization by the Municipality has been obtained.

27. Removal and dumping in water areas

- (1) No persons may, without the prior written authorization of the Municipality and other than subject to the conditions imposed by the Municipality, in any manner in a nature area—
 - (a) remove, dredge, pump or move any sand, soil or stones from a water area;
 - (b) deposit, dump or throw sand, soil, stones or other material of any kind in a water area.

28. Domestic animals and livestock in nature areas

- (1) No person may, except on conditions determined by the Municipality from time to time, allow any dog, cat or other domestic animal or livestock belonging to or under the care of that person to enter or remain in a nature area.
- (2) Any dog, cat or other domestic animal, including those contemplated in Section 28(1) which is not in the care of any person, may be caught and removed, impounded or destroyed at the discretion of the Municipality.
- (3) Any dog, cat, other domestic animal or livestock in a nature area, including those contemplated in Section 28(1), that is not in direct control by means of a leash or similar restraint, unless in a designated leash or constraint free area, may be caught and removed or impounded at the discretion of the Municipality.

29. Firearms and dangerous weapons

No person, other than a ranger, authorised official or contracted security personal with written authorization of the municipality, who enters a nature area, may be in possession of any firearm, dangerous weapon, explosive, trap or poison.

30. Commercial activities

No person may undertake any activities of a commercial nature, including the operation of any entertainment device, the sale of any goods, the hire of any equipment, or any similar activity on any nature area, without written authorization from the Municipality.

31. General restrictions

- (1) No person who is in a nature area, without the written authorization of the Municipality, may—
 - (a) offer any show or entertainment, conduct any business or trade, or collect any money from the public;
 - (b) carry on any agricultural or gardening activities except subject to the conditions which the Municipality may lay down from time to time;
 - (c) use or cause to be used, any loud speaker or similar device or other noisy equipment;
 - (d) construct or erect any booth, marquee or other structure;
 - (e) organise or cause to be organised or attend or participate in any public meeting, demonstration or gathering; or
 - (f) tamper with, deface, damage, remove or in any other way interfere with a nature area boundary fence or object demarcating the boundary of a nature area.
- (2) No person may—
 - (a) intentionally or negligently cause a fire or discard any burning or smouldering object in any place where it may set fire to any other object or otherwise act in a manner likely to cause a fire, other than at a place where the making of a fire is permitted by the Municipality;
 - (b) smoke in a nature area, other than in areas designated for smoking; or
 - (c) discharge any firework.

CHAPTER 6: PROHIBITED ACTIVITIES**32. Prohibitions relating to vehicles**

- (1) No person, other than a municipal official or authorized individual, driving a vehicle in a nature area may—
 - (a) drive, park, or stop in such a manner that constitutes a nuisance, disturbance, inconvenience or danger to any other person or vehicle;
 - (b) drive, park or stop in any manner that causes an obstruction;
 - (c) block the pathway of a management operation or emergency vehicle;
 - (d) park a vehicle in a place other than in a place designated for that purpose by the Municipality;
 - (e) drive or park anywhere except on a designated road or designated parking area;
 - (f) drive or operate any vehicle in a reckless or negligent manner, or deliberately or intentionally disregard the safety of any person, species, specimen or property of whatever nature;
 - (g) drive a vehicle off designated roads or tracks, except in an area set aside by the Municipality for that purpose; or
 - (h) drive a vehicle for recreational purposes, including, but not limited to, 4x4ing, off-roading, quad biking and motor biking in any area not demarcated for such recreational activity.

- (2) The Municipality may restrict or preclude the use of any vehicle or vehicle type within a nature area or section of a nature area.
- (3) No person may enter or travel in a nature area except in a vehicle that conforms to the dimensions and other requirements determined by the Municipality.

33. Littering and pollution

- (1) No person may, in a nature area—
 - (a) deposit or leave any litter which is either industrial or domestic, regardless of whether that litter is biodegradable or non-biodegradable, except in an area or receptacle provided for that purpose;
 - (b) deposit or leave any litter, bottle, broken glass, china, pottery, plastic article, rubbish, refuse, seeds, fruit or vegetable matter or other waste material, except in an area or receptacle provided for that purpose;
 - (c) deposit, discharge or leave any noxious, smelly, offensive or polluting substance, matter or thing;
 - (d) deposit or leave any offal, dead species or specimen, or dung;
 - (e) deposit, except in any receptacle provided for litter, any domestic garbage;
 - (f) intentionally break any article of glass, china, pottery, plastic or other brittle material;
 - (g) deposit, discharge or leave any mineral, mineral waste or other industrial waste or by-product thereof;
 - (h) discard or discharge any toxic chemical or substance, pharmaceutical substance, including biocides, or any other pollutant or harmful substance except in the course of control and eradication of invasive specimens in terms of the National Environmental Management: Biodiversity Act (10 of 2004); or
 - (i) dispose of aerosols containers or any other hazardous substance of such nature.
- (2) No person at any time or in any manner, including by the use of detergents, dispose of any solid or liquid waste, including engine oil, into any water area in a nature area.
- (3) No person may at any time or in any manner throw, place or dispose of any item, medium or object that may directly or indirectly cause water pollution.

34. General prohibitions

- (1) No person may, in a nature area—
 - (a) unlawfully occupy, build on, erect, move into, inhabit, sell or use any land, building or structure to which he or she does not have lawful title;
 - (b) demarcate any piece of land with any form of material, including, but not restricted to string, rope, pegs, stones, pebbles, wire, wood or any other material or continue to demarcate after a written notice to stop any form of demarcation was issued by the Municipality;
 - (c) move or remove any demarcation or surveying pegs affixed in terms of any law;
 - (d) without the written consent of the Municipality allow, encourage, motivate, organise or instigate the occupation of any land;
 - (e) continue with any activity specified in subsections (a) to (e) above after a written notice to stop construction was issued by the Municipality;
 - (f) at any time play any radio, compact disc player, music system, musical instrument or in any way whatsoever cause any noise in a manner that is likely to disturb any species or specimen or other person;

- (g) behave in an offensive, improper, indecent or disorderly manner;
 - (h) engage in sexual activity or solicit any person for the purpose of prostitution or immorality;
 - (i) except subject to written authorization granted in Chapter 3, 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, plant or vegetation; or
 - (j) create or construct any new access roads, paths or tracks.
- (2) No person may, in a nature area, intentionally obstruct, disturb, interrupt or annoy any other person utilising the nature area in compliance with this By-Law.
- (3) No person may discharge a firearm within a nature area, except—
- (a) if that person is authorized by the Municipality thereto;
 - (b) for the discharge of a blank by a life-guard during an organized competition or by any other person authorized by the Municipality, during a sports meeting in a water area; or;
 - (c) in connection with the collection of specimens for scientific purposes, subject to the written authorization of the Municipality;
- (4) No person may, in a nature area, throw, roll or discharge any stone, rock, boulder, substance, projectile or missile to endanger any person, species or specimen.
- (5) No person may, in a nature area, prevent, hinder or obstruct a ranger, authorised official or contracted security personal in the exercise of his duties in terms of this By-Law.

CHAPTER 7: FEES AND TARIFFS

35. Fees and tariffs

- (1) The Municipality shall annually determine the fees and tariffs applicable for—
- (a) access to nature areas;
 - (b) the use of any amenity, service, facility, entertainment venue, event, film show or performance presented or provided or rendered by or on behalf of the Municipality, at or in a nature area; and
 - (c) the operation of any commercial activity;
 - (d) costs associated with any remedial action undertaken by the Municipality due to non-compliance with the By-law.
- (2) The Municipality may recover costs associated with remedial action undertaken due to non-compliance with the By-law.
- (3) The Municipality may suspend the payment of entrance fees on any specific day as it may deem fit.

CHAPTER 8: COMPLIANCE AND ENFORCEMENT

36. Rangers

- (1) The Municipality may appoint any official as a ranger.

- (2) Any duly appointed ranger must be in possession of the prescribed staff identification card when exercising any power in terms of this By-Law and must, upon request, produce such card.
- (3) Should the ranger considered in subsection 36(2) fail to produce the staff identification card then no power granted in terms of this By-Law can be exercised.

37. Powers and functions of rangers

- (1) In this section, unless the context indicates otherwise, 'article' means anything, including a structure, object, document, book, record or electronic information or extract, part or sample therefrom that is reasonably suspected in the use of contravening this By-Law.
- (2) Without a warrant, a ranger may stop, enter, search and seize any vehicle, premises or person if the ranger has reasonable grounds to believe that an offence in terms of this By-Law has been or is being committed by means or with the help of such vehicle or premises if—
 - (a) the person in control of the vehicle or premises consents to such stop, entry, search or seizure; or
 - (b) the ranger has reasonable grounds to believe that a warrant will be issued, if the ranger applied for it, and the delay caused by the obtaining of such a warrant would defeat the object of the stop, entry, search or seizure.
- (3) If subsection 37(2) does not apply, then a ranger may stop, enter and search any vessel, vehicle, premises or person and may seize an article contemplated in subsection 37(5)(h) only on the authority of a warrant.
- (4) A judge in chambers may issue a warrant contemplated in subsection 37(3) on written application by a ranger if it appears from information under oath or affirmation that—
 - (a) there are reasonable grounds for believing that a contravention of this By-Law has occurred;
 - (b) the search and seizure is likely to yield information pertaining to the contravention; and
 - (c) the search and seizure is reasonably necessary for the purposes of this By-Law.
- (5) In enforcing or investigating compliance with this By-Law, a ranger may—
 - (a) be accompanied by an interpreter, a police official or any other person who may be able to assist with the inspection;
 - (b) inspect any article which may be relevant to the investigation;
 - (c) examine, analyse, measure or make a copy of an article and remove it for examination, analysis, measurement, copying or extraction;
 - (d) require a person to produce or to deliver at such time and place as may be determined by the ranger, an article for inspection;
 - (e) take a photograph or make an audio-visual recording of any person or anything for his or her investigation;
 - (f) question a person who, in the opinion of the ranger, may be able to furnish information on a matter to which this By-Law relates;
 - (g) direct a person to appear before him or her at such time and place as may be determined by the ranger and question such person either alone or in the presence of any other person on a matter to which this By-Law relates; and
 - (h) seize an article—
 - (i) which is associated with or is on reasonable grounds believed to be associated with an offence in terms of this By-Law;

- (ii) which may afford evidence of an offence in terms of this By-Law; or
 - (iii) which is intended to be used or is on reasonable grounds believed to be intended to be used in the commission of an offence in terms of this By-Law.
- (6) A person who so requests may, if possible, make a copy of an article to be removed or seized in terms of this section.
- (7) When a ranger removes or seizes an article, the ranger must issue a receipt to the owner or person in control thereof and, if possible, return the article as soon as practicable after achieving the purpose for which the article was removed or seized.
- (8) A ranger must exercise his or her powers and functions with strict regard for decency and order, and with regard for each person's right to dignity, freedom, security and privacy.
- (9) Notwithstanding the provisions of this By-Law, and subject to any other applicable legislation, a ranger may—
 - (a) launch, operate or use any vehicle or vessel upon any recreational water or in any nature area 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, monitoring or conducting a survey;
 - (b) do anything in a nature area in the exercise of a lawful power or duty; and
 - (c) in any nature area, 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.

38. Compliance Notice

- (1) The Municipality or appointed ranger may serve a written compliance notice on a person if there are reasonable grounds for believing that the person is in contravention of this By-Law.

The compliance notice must—

- (a) describe the conduct constituting a contravention of this By-Law;
- (b) indicate which provision of this By-Law or condition of approval is contravened;
- (c) where relevant, state that the unlawful conduct constitutes an offence and indicate the penalty;
- (d) where relevant, be issued together with a fine;
- (e) instruct the person to cease the unlawful conduct;
- (f) where relevant, impose conditions which must be complied with and specify the steps to be taken to comply;
- (g) state that a failure to comply with the notice constitutes an offence and indicate the penalty; and
- (h) state that, in the event of non-compliance with the notice, the Municipality may take one or more of the following measures—
 - (i) issue the person with a fine for not complying with the compliance notice;
 - (ii) take steps to remedy any adverse effect arising from the person's actions and recover the costs from such person;
 - (iii) apply to a competent court for appropriate relief including the costs of the application; or
 - (iv) institute a criminal prosecution.

The compliance notice may—

- (i) instruct the person within a specified time to, in writing, inform the Municipality what steps have been taken to comply with the notice;
 - (j) instruct a person at their cost to take specified action to the satisfaction of the Municipality within a specified time to—
 - (i) cease, modify or control an activity causing, continuing or contributing to an adverse effect on a nature area,
 - (ii) investigate, evaluate and assess the impact of a specific situation or activity and report thereon;
 - (iii) undertake and complete specific measures;
 - (iv) eliminate or remove an encroachment or unauthorized structure;
 - (v) rehabilitate the affected environment; or
 - (vi) any combination of the provisions listed in paragraphs (i) through (v).
- (2) Should the person on whom a compliance notice under subsection 38(1) was issued, fail to comply, or inadequately comply, with the compliance notice or authorization, then the Municipality may take measures that the Municipality considers appropriate to remedy the situation and may authorize another person to take such measures.
- (3) The Municipality may recover costs to the Municipality, or an authorized person, for the measures to be undertaken under subsection 38(2), and all costs incurred as a result of acting under subsection 38(2), from any or all of the persons on whom the compliance notice or authorization was issued.

39. Impounding of vehicle, items or goods

- (1) The Municipality or appointed ranger may, without a warrant, seize and impound a vehicle, items or goods which is concerned, or is on reasonable grounds believed to be concerned, with the commission of an offence in terms of this By-Law.
- (2) The ranger, at the time of the impoundment, must give the holder of the impounded vehicle, items or goods an impoundment notice setting out –
- (a) the reason for the impoundment;
 - (b) a description of the impounded vessel or vehicle;
 - (c) the address and contact details of the designated pound;
 - (d) the impoundment fee; and
 - (e) a warning that the impounded vehicle may be sold to recover the impoundment fee and any fine, costs or damages.
- (3) The ranger must cause an impounded vehicle to be taken to a designated pound where it must be retained and dealt with in terms of this section.
- (4) The Municipality must release the impounded vehicle, items or goods to the owner upon presentation of proof of ownership if, in relation to the offence contemplated in subsection 40 –
- (a) a criminal charge is not laid, or a fine or a notice of intention to prosecute is not issued within 72 hours of the impoundment; or
 - (b) the criminal case against all accused persons is disposed of because –
 - (i) the charges are withdrawn;
 - (ii) the accused persons are acquitted; or

- (iii) the accused persons are convicted and either the impoundment fee and any fine, costs and damages are paid.
- (5) An impounded vessel, vehicle, items or goods is forfeited to the Municipality and becomes the property of the Municipality if –
 - (a) a court orders such forfeiture; or
 - (b) the lawful owner of the vehicle, items or goods cannot be traced within 90 days of such impoundment after reasonable efforts to trace the owner have not been successful.
- (6) If any payment contemplated in subsection 39(4)(b)(iii) is not made within such time as the Municipality may determine, and if no appeal has been lodged at the expiry of the time limit for an appeal, the Municipality may sell an impounded vehicle, items or goods and deal with any net proceeds in accordance with subsection 39(7).
- (7) Any net proceeds from the sale of an impounded vessel, vehicle, items or goods must be applied as follows and in this order:
 - (a) the recovery of costs incurred by the Municipality during forfeiture and impoundment;
 - (b) the payment of the impoundment fee, and any fine, costs or damages ordered by a court in relation to an offence contemplated in subsection 39(1); and
 - (c) return to the person who lawfully owned the vessel, vehicle, items or goods at the time of the impoundment except where the vessel, vehicle, items or goods was forfeited to the Municipality.
- (8) The Municipality may determine an impoundment fee and designate a pound contemplated in this section.

CHAPTER 9: OFFENCES AND PENALTIES

40. Offences

- (1) Any person who—
 - (a) contravenes a provision of this By-Law;
 - (b) contravenes any conditions, restrictions or prohibitions imposed in terms of this By-Law;
 - (c) fails to comply with the terms of any notice or signage displayed in terms of this By-Law;
 - (d) contravenes a lawful instruction given by a ranger in terms of this By-Law;
 - (e) threatens, obstructs, hinders or uses abusive language to a ranger or a person lawfully accompanying the ranger in the exercise of a power conferred in terms this By-Law;
 - (f) when called upon by a ranger to furnish information, furnishes false or misleading information; or
 - (g) falsely holds himself or herself to be a ranger or a person authorized to act on behalf of the Municipality in terms of this By-Law;
- commits an offence.

41. Penalties

- (1) Any person who commits an offence referred to in Section 40 is liable to a corresponding fine as contemplated in terms of the NEMA Admission of Guilt Fines Regulations (Annexure B), or upon conviction to imprisonment for a period not exceeding 2 years or to such imprisonment without the option of a fine, or to both such fine and such imprisonment.
- (2) In addition to imposing a fine or imprisonment, a court may order any person convicted of an offence in terms of this By-Law—
 - (a) to rectify the harm caused;
 - (b) to forfeit to the Municipality a vehicle impounded in terms of Section 39;
 - (c) to pay the costs incurred by the Municipality as a consequence of the contravention; and
 - (d) to pay damages for harm caused to another person or property within the nature area, which order shall have the force and effect of a civil judgment.
- (3) The Municipality may ban any person who fails to comply with any provisions of this By-Law from entering any nature area(s) for a determined period of time.
- (4) The Municipality may restrict access to a vehicle that fails to comply with any provisions of this By-Law from entering a nature area for a determined period of time.
- (5) A ban imposed in terms of subsections 41(3) and 42(4) must be reduced to writing and served on the person or owner of the vehicle.
- (6) The Municipality must provide a person contemplated above with a written notice of its intention to ban such person in terms of section 41(3). Such a person has 7 days to provide reasons why the Municipality should not ban such person.
- (7) A person who has been banned in terms of subsections 41(3) and 41(4) above may make written representations to the Municipality as to why the ban should be lifted or reduced in length within 48 hours of the receipt thereof.

42. Appeals

Any person may appeal against an administrative decision taken by the Municipality or ranger in terms of this By-Law in accordance with the provisions of Section 62 of the Local Government: Municipal Systems Act (32 of 2000).

43. Delegation

A function, power or duty conferred on the Municipality in terms of this By-Law may be delegated or sub-delegated to an employee of the Municipality in accordance with the system of delegation adopted by Council in accordance with Section 59 of the Local Government: Municipal Systems Act (32 of 2000).

44. Liability and Indemnity

- (1) The Municipality and appointed rangers are not liable for any loss sustained by or damage caused to a person by an act or omission in good faith relating to the performance of a duty under this By-Law, unless gross negligence is proved.

- (2) Any person making use of a public amenity shall do so at his/her own risk, Council shall not be liable for the death of or any injury to persons or any loss of or damage to any property of visitors, unless gross negligence is proved.

45. Repeal of by-laws

The provisions of any by-laws pertaining to nature areas 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.

46. Short title and Commencement

This By-Law is called the Stellenbosch Municipality: Nature Areas By-Law and comes into operation on promulgation in the Provincial Gazette.