

**CITY OF CAPE TOWN
COASTAL BY-LAW, 2019**

DRAFT BY-LAW

To provide for measures for managing and protecting the coastal zone; protecting the natural environment of the coastal zone; managing public access to the coastal zone; manage, control and regulate public access and behaviour at beaches and beach areas; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS section 156(1) of the Constitution of the Republic of South Africa, 1996 confers on a municipality the executive authority and right to administer (a) the local government matters listed in Part B of Schedule 4 and Part B of Schedule 5 to the Constitution; (b) and any other matter assigned to it by national or provincial legislation;

WHEREAS the City has legislative and executive competence relating to matters such as, but not limited to, municipal planning, building regulations and standards, use of and access to beaches, and nuisance, as pertaining to the coastal zone;

WHEREAS in terms of Part B of Schedule 4 of the Constitution of the Republic of South Africa, 1996 the City has legislative competence relating to pontoons, ferries, piers and harbours;

WHEREAS in terms of Part B of Schedule 5 of the Constitution of the Republic of South Africa, 1996 the City has legislative competence relating to beaches and amusement facilities, local amenities, noise pollution, and traffic and parking;

WHEREAS the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) affords coastal municipalities the powers to administer certain matters, aspects of functions of the aforesaid Act, such as matters contemplated in sections 18(1), 20(2) and 50 of the said Act;

AND WHEREAS there is a need to develop legislation to govern the access to and use of beaches and the coastal areas within the jurisdiction of the City.

NOW THEREFORE BE IT ENACTED by the Municipal Council of the City of Cape Town as follows:

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CHAPTER 1. DEFINITIONS

(ss 1-2)

1 Definitions

(1) In this By-Law, unless the context indicates otherwise –

'authorised official' means – an employee of the City responsible for carrying out a duty or function or exercising any power in terms of this By-Law and includes any employee delegated to carry out or exercise the duty, function or power;

'bathing' means swimming or entering the waters or any tidal pool provided by the City on the beach area for public use;

'beach area' means the beach and any part of the coastal area and its immediate surroundings, including any open space, park, road, lane, parking space, pathway, or any municipal property or public amenity located in such area;

'beach bathing area' means any portion of the seashore which is demarcated as a bathing area and may be protected from sharks by whatsoever means and under supervision of lifeguards, and includes the sea for a distance of two hundred metres seaward, but excludes surf-riding or surfing and paddling;

'City' means the municipality of the City of Cape Town established by Government Notice No 479 of 2000 issued in terms of section 12 the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), or any structure or employee of the City acting in terms of delegated authority;

'coastal access land' means the land designated as coastal access land in terms of section 18(1) of this By-law, read with section 26 of the National Environmental Management: Integrated Coastal Management Act, 2008 (Act 24 of 2008);

'coastal area' means the seashore and the sea for a distance of 200 meters seaward and 100 meters inland, but excluding any privately owned land and including all Admiralty Reserves and Public Roads as defined in the Road Traffic Act, 1996 (Act No. 93 of 1996);

'coastal environment' means the environment within the coastal zone;

'Coastal Management Act' means the National Environmental Management: Integrated Coastal Management Act, 2008 (Act 24 of 2008);

'coastal zone' means the area comprising coastal public property, the coastal protection zone, coastal access land and coastal protected areas, the seashore, coastal waters and the exclusive economic zone and includes any aspect of the environment on, in, under and above such area, as contemplated by the National Environmental Management: Integrated Coastal Management Act, 2008 (Act 24 of 2008);

'encroachment' means a condition in the coastal zone arising through human activity that has the design, effect or appearance of extending the extent of a private property or appropriating any part of the coastal zone;

'environment' means the surroundings within which humans exist and that are made up of –

- (a) the land, water and atmosphere of the earth;
- (b) micro-organisms, plant and animal life;
- (c) any part or combination of (a) and (b) and the interrelationships among and between them, and
- (d) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

'fish' means a living marine organism including an aquatic plant or animal whether piscine or not, and a mollusc, crustacean, coral, sponge, holothurian or other echinoderm, reptile and marine mammal, and includes their eggs and larvae at all juvenile stages;

'fishing' means –

- (a) searching for, catching, taking or harvesting fish by any means including line, net or spear gun, or attempting to engage in such an activity;
- (b) engaging in another activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish;
- (c) placing, searching for or recovering a fish aggregating device or associated gear, including radio beacons;

- (d) an operation in support of or in preparation for an activity described in this definition, or
- (e) the use of a vessel or aircraft in relation to an activity described in this definition;

'high-water mark' means the highest line reached by coastal waters, but excluding any line reached because of –

- (a) exceptional or abnormal weather or sea conditions, or
- (b) an estuary being closed to the sea.

'illegal fishing' means engaging in fishing without every permit required by law or using a fishing method or fishing gear that is prohibited by law;

'infrastructure' means an object or structure, whether permanent or temporary;

'low-water mark' means the lowest line to which coastal waters recede during spring tides;

'Municipal Coastal Management Programme' means the municipal coastal management programme adopted by the City in terms of section 48 of the Coastal Management Act;

'permit' includes a licence, certificate, right or any other written permission granted by the City;

'person' means a natural or juristic person and includes the state and an organ of state in the national, provincial or local sphere of government;

'pollution' means any change in the environment caused by –

- (a) substances;
- (b) radioactive or other waves, or
- (c) noise, odours, dust or heat

emitted from any activity, including the storage or treatment of waste or substances, construction and the provision of services, whether engaged in by any person or an organ of state, where that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future;

'sea defence' means a measure taken or an artificial structure intended to prevent or promote erosion or accretion of the seashore or for protecting property from a coastal process, including wind-blown sand and storm surge, irrespective of –

- (a) the material used, if any;
- (b) whether it is of a permanent or temporary nature;
- (c) whether it is on public or private property, and
- (d) whether it is on a person's own property or another person's property;

'seashore' or **'beach'** means the area between the low-water mark and the high-water mark, or as may be determined or adjusted from time to time in respect of the coastal zone boundaries by a competent national or provincial authority in terms of the National Environment Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

'sign' means a written notice erected by the City;

'unauthorised sea defence' means a sea defence which the City has not authorised in terms of section 9(1);

'vessel' means a water-navigable craft of whatsoever nature, whether self-propelled or not, and

'waste' means a substance, material or object that is unwanted, rejected, abandoned, discarded or disposed of or that is intended or required to be discarded or disposed of, whether or not it can be re-used, recycled or recovered.

(2) Words derived from the word or terms defined have corresponding meanings, unless the context indicates otherwise.

(3) A reference to another law includes an amendment and a future amendment to that law.

2 Object of By-law

(1) The objects of the By-law are to –

- (a) fulfil the responsibilities and duties assigned to the City by the Coastal Management Act;
- (b) ensure sustainable use and development of the coastal area by aligning municipal planning with the Coastal Management Act;
- (c) promote the protection of the natural environment of the coastal zone;

- (d) promote cooperative governance between the City and other relevant spheres of government relating to the management of the coastal zone;
- (e) promote fair and equitable access to the coastal zone by members of the public;
- (f) create an effective system for the managing and controlling of public access to beaches and beach areas;
- (g) provide measures to regulate conduct on beaches and beach areas and to prohibit certain activities or conduct on beaches and beach areas;
- (h) provide measures to control and regulate access to and the use of public amenities on the beach and beach areas;
- (i) provide for penalties for the breach of its provisions; and
- (j) provide for related matters.

CHAPTER 2.
APPLICATION OF THIS BY-LAW AND CONFLICT OF LAWS
(ss 3 -4)

3 Application

- (1) This By-Law –
 - (a) applies to the coastal zone;
 - (b) binds every person;
 - (c) governs conduct that takes place either wholly or partially in, or impacts upon, the coastal zone.
- (2) This By-Law does not apply to the following activities when conducted by the City –
 - (a) provision of a safety measure intended to reduce the risk of injury to people in the coastal zone;
 - (b) implementation of a measure intended to protect against coastal erosion, storm surge events, estuary migration and sea level rise;
 - (c) manipulation or clearing of an estuary, river mouth, river or stormwater outlet;
 - (d) provision of a utility service, including water, desalinization facilities, electricity, waste removal and disposal, and stormwater management, demarcation and containment of pollution;
 - (e) clearing of alien vegetation;
 - (f) controlled burning of vegetation;
 - (g) cleaning of a beach area;
 - (h) management and disposal of sand that has accumulated on infrastructure;
 - (i) construction and removal of a temporary structure in accordance with the City’s Filming By-law or Events By-Law; and
 - (j) rehabilitation and management of the coastal zone in accordance with the Municipal Coastal Management Programme and or the Maintenance Management Plan: Dunes and Beaches.

(3) An approval, instruction or exemption granted in terms of this By-Law and the provisions of subsection (2) do not release any person from their duty to also obtain any other authorisation or permit required by this By-Law or another law, and to comply with all law.

4 Conflict with other laws

- (1) If there is a conflict between this By-Law and another by-law, this By-Law prevails over the affected provision of the other by-law in respect of any matter concerning the regulation of the coastal zone.
- (2) If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.

CHAPTER 3.
PROTECTION OF COASTAL ZONE
(ss 5-10)

5 Duty of care

- (1) No person may cause, continue or contribute to an adverse effect on the coastal zone.
- (2) A person who causes, contributes to an adverse effect or allows an adverse effect to continue on the coastal zone or who owns, controls, or a person who has a right to use land on, or premises in, which an activity occurs which causes, contributes to an adverse effect or allows and adverse effect to continue on the coastal zone, must take reasonable measures to prevent the adverse effect from occurring, continuing or recurring, and must remedy the adverse effect.

6 Illegal fishing

- (1) No person may engage in illegal fishing or be in possession of illegally caught fish.
- (2) Any person who is found in possession of fishing gear, which is reasonably suspected of having been used or intended to be used to engage in illegal fishing, and is unable to give a satisfactory account of such possession, is presumed to be engaged in illegal fishing unless evidence is produced to the contrary.
- (3) Any person who is found in possession of a fish, which is reasonably suspected of having been caught by illegal fishing, and is unable to give a satisfactory account of such possession is presumed to be in possession of illegally caught fish unless evidence is produced to the contrary.

7 Protection of coastal environment

- (1) In this section, unless the context indicates otherwise, '**natural dynamic coastal process**' means a natural process that occurs within the coastal environment and which shapes the coastal environment, adjacent natural areas and inshore seabed and includes wind, wave, current and tidal action, river flow, long- and cross-shore sediment drift, coastal erosion and accretion.
- (2) No person may in the coastal zone –
 - (a) interfere with, impede or restrict a natural dynamic coastal process unless written authorisation is granted by the City;
 - (b) prune, harvest or remove vegetation unless reasonably necessary;
 - (c) deposit, move, collect or remove sand, pebbles, rocks, shells, shell grit or kelp: Provided that reasonable activity in relation to the listed actions together with the digging of holes by children or beachgoers in the ordinary use or enjoyment of the beach area is not prohibited; or
 - (d) change the geomorphology unless written authorisation is granted by the City.
- (3) Unless the City grants written authorisation, no person may within the coastal zone interfere with, cause damage to, collect, harvest, impede, harm, harass, hunt or restrict a living or dead wild animal or plant, or displace, disturb, destroy or remove its habitat.
- (4) No person may in the coastal zone–
 - (a) litter;
 - (b) misuse, remove water from or contaminate a water body, water source, water supply or wastewater or any portion thereof;
 - (c) drain or redirect water from private land into the coastal zone; or
 - (d) damage, dig, disturb, deface, destroy or remove a fossil, historical artefact or similar object.
- (5) No person may, without prior written authorisation from the City, in the coastal zone–
 - (a) discharge solid, liquid or gaseous pollution;
 - (b) dump, deposit or store waste;
- (6) No person may drop, throw, deposit, spill, dump, store or in any other way discard any litter or waste in the coastal zone.
- (7) No person may use a vehicle without a permit in terms of, or contrary to the provisions of the Control of Use of Vehicles in the Coastal Area Regulations published in terms of the Coastal

Management Act or park a vehicle in any place where the use of a vehicle is prohibited under those Regulations.

8 Encroachment

- (1) No person may cause, permit or contribute to an encroachment or allow an encroachment to continue.
- (2) For purposes of subsection (1) an encroachment is caused by any of the following actions or activities, irrespective of whether the encroachment is of a temporary or permanent nature –
 - (a) erection of a structure or building;
 - (b) placement of an item;
 - (c) erection of a fence, wall, barrier, swimming bath, swimming pool, reservoir or bridge or other structure connected therewith;
 - (d) erection of a facility or system for the provision of water supply, irrigation, drainage, sewerage or stormwater disposal, electricity supply or other similar service;
 - (e) alteration of a water course;
 - (f) landscaping, gardening, planting, maintenance or removal of vegetation;
 - (g) placement, movement or removal of a dune; and
 - (h) dumping, infilling or excavation of any material or disposal of soil, rubble or garden refuse.
- (3) No owner of, person in control of, or person who has a right to use land which appears to be extended by or benefit from an encroachment may allow the encroachment to continue to exist, even if such owner or person did not cause, permit or contribute to the encroachment; or
- (4) A person who alleges that the owner of land that is encroached upon granted written, lawful permission for the encroachment has the onus of proving it, except in criminal proceedings.

9 Unauthorised sea defence

- (1) Unless authorised by the City in writing, no person may cause, permit or contribute to a sea defence or allow a sea defence to continue.
- (2) No owner of, person in control of, or person who has a right to use land which is intended to benefit from an unauthorised sea defence may allow the sea defence to continue to exist, even if such owner or person did not cause, permit or contribute to the sea defence.

10 Remediation of encroachment and unauthorised sea defence

- (1) In this section, unless the context indicates otherwise, '**responsible person**' means –
 - (a) a person who causes, permits or contributes to an encroachment or unauthorised sea defence or allows an encroachment or unauthorised sea defence to continue; or
 - (b) in respect of land which appears to be extended by or benefit from an encroachment or is intended to benefit from an unauthorised sea defence, a person who –
 - (i) owns, controls, or has a right to use the land; or
 - (ii) previously owned, controlled, or had a right to use the land at any time that the encroachment or unauthorised sea defence existed.
- (2) A responsible person must take measures at their cost to –
 - (a) eliminate or remove the encroachment or unauthorised sea defence; and
 - (b) rehabilitate the affected land, to the satisfaction of the City.
- (3) Before undertaking the action contemplated in subsection (2) the responsible person must –
 - (a) satisfy the City of the appropriateness and adequacy of the proposed action;
 - (b) obtain written authorisation of the proposed action from the City; and
 - (c) obtain any other permit lawfully required.

CHAPTER 4.
REGULATION OF ACTIVITY
(ss 11-17)

11 Designation of areas

- (1) In this section, unless the context indicates otherwise, 'activity' includes an act, an omission, a state, a recreational activity, a non-recreational activity, and the possession of something.
- (2) The City may by a displayed notice, signage or in any other manner designate an activity which may be undertaken and an activity which may not be undertaken within the coastal zone.
- (3) The City may withdraw or amend any designation made in terms of subsection (2).
- (4) If the designation, withdrawal or amendment of the designation materially and adversely affects the public, then the City must consult the public before making the designation, withdrawal or amendment.
- (5) If urgent action is necessary or it would be impractical to undertake prior consultation, the City may make, withdraw or amend a designation, and consult the public as soon as thereafter is reasonable.
- (6) The designation must be published on the City's website and may –
 - (a) vary by time of day and day of the week;
 - (b) be temporary or permanent;
 - (c) be subject to conditions; and
 - (d) be indicated on a sign.
- (7) Without the need to consult or publish the designation on the City's website, an authorised official may temporarily prohibit bathing, presence or other activity in a part of the coastal zone for as long as the authorised official considers a situation or the conditions of the sea unsafe, and may communicate such designation in any manner appropriate in the circumstances.
- (8) No person may undertake an activity in contravention of a designation in terms of this section.

12 Bathing within certain areas

- (1) The City may by a displayed notice or signage or in any other manner, permanently or temporarily prohibit bathing in any part of the beach.
- (2) An authorised official may prohibit bathing in any part of the beach at any time for as long as the conditions of the sea appear in his or her discretion to be unsafe.
- (3) No person may bathe in any part of the beach where bathing is prohibited in terms of this section.
- (4) No person may, while such a life-saving appliance or device is in use, perform an act which impairs or impedes or is likely in any manner to impair or impede its efficient operation.

13 Surf-riding or surfing within certain areas

- (1) No person may without the authorisation of the City engage in surf-riding or surfing within any part of the beach which is designated as a beach bathing area.
- (2) An authorised official may permanently or temporarily prohibit surf-riding or surfing on the grounds that it is unsafe or is likely to cause discomfort or injury to other users on the beach.

14 Safe and harmonious use of the coastal zone

- (1) Unless the City grants written authorisation, no person may undertake the following activities in the coastal zone other than in an area so designated in terms of section 11 or another by-law of the City –
 - (a) start or maintain a fire;
 - (b) discharge a flare except in the event of a marine emergency, discharge a firework or firecracker or release a Chinese lantern;
 - (c) cause a motorised vessel to approach within 100m of a person bathing or within 100m of the low water mark in a bathing area, save for rendering assistance in an emergency or in the course of law enforcement;
 - (d) fish –

- (i) in tidal pool;
- (ii) within 100m of a designated bathing area; or
- (iii) from any bridge, walkway or promenade in picnic or recreational areas excluding in small harbours;
- (e) erect a structure of whatever nature, other than a beach umbrella or a gazebo that is safe, smaller than 9m² and not unsightly;
- (f) erect a closed shelter;
- (g) camp or sleep overnight;
- (h) use a loudspeaker, amplifier or similar equipment;
- (2) No person may bath, dive, snorkel or play within 50 meters of or near a jetty or designated public launch site.

15 Liquor, drugs, food, performances and hawking

Unless the City grants written authorisation, no person may in the beach area or coastal area other than in an area so designated in terms of section 11 or another by-law of the City –

- (a) kill or skin an animal;
- (b) sell liquor, a drug or food;
- (c) possess or consume liquor or a drug;
- (d) be under the influence of intoxicating liquor or a drug having a narcotic effect;
- (e) give a performance or provide entertainment; or
- (f) hawk or exhibit goods or carry on any other business.

16 Undesirable conduct

- (1) No person may in the coastal zone –
 - (a) handle, interfere with, disturb or remove a safety rope or other appliance provided for the protection of bathers or the assistance of a distressed bather, except for the purpose of rendering assistance to such a bather;
 - (b) damage, tamper with, destroy or deface any equipment, amenity or structure;
 - (c) act in a manner that poses a risk to life, human well-being or property;
 - (d) possess or bring into a bathing area or pool a container made of glass;
 - (e) throw or deposit into the beach area or coastal area a container made of glass or an object or matter likely to be dangerous to health or safety;
 - (f) behave in an improper, indecent, unruly, violent or anti-social manner or cause a disturbance;
 - (g) indecently expose their body or perform an indecent act; or
 - (h) use foul or indecent language.

17 Animals

- (1) No person may in the coastal zone cause or permit an animal belonging to them, or in their charge, to –
 - (a) be in an area where, or at a time when, animals are prohibited;
 - (b) behave in a manner that may pose a risk to, cause nuisance, disturb or harm another person, or cause damage to the beach area or infrastructure;
 - (c) approach, disturb, harass, chase, hunt, attack or kill a wild animal, fish or bird; or
 - (d) attack or kill a domesticated animal.
- (2) If a dog defecates in the beach area or coastal area, a person in charge of the dog must immediately remove the excrement, place it in a bag or wrapper and dispose of it in a refuse bin.
- (3) No person may bring or walk a dog in the beach area –
 - (a) except on a leash and under control unless the area is designated in terms of section 11 as an area where a dog may be unleashed;
 - (b) which is ferocious, vicious or dangerous unless it is humanely muzzled and held on a leash and under control; or
 - (c) without carrying enough bags or wrappers contemplated in subsection (2).
- (4) Subsections (1)(a) and (2) do not apply to a person who is assisted by a guide dog.
- (5) If an animal is found under circumstances which constitute a contravention of this section, the City may seize the animal and deal with it in the manner prescribed by the City's Animal By-

Law, 2010, irrespective of whether the animal is in the charge of or accompanying its owner or another person.

CHAPTER 5.
COASTAL CONNECTIONS AND COASTAL FACILITIES
(ss 18-20)

18 Coastal connection

- (1) In this section, ‘**coastal connection**’ means land designated as coastal access land in terms subsection (2)
- (2) Following the process contemplated in section 19 of the Coastal Management Act, the City may by notice in the *Provincial Gazette* designate a strip of land as coastal access land to secure public access to that coastal public property as contemplated in section 18 of the Coastal Management Act.
- (3) Unless the City grants written authorisation, no person may block or impede a coastal connection or damage or deface infrastructure relating to a coastal connection.

19 Entry to and use of a coastal facility

- (1) In this section, ‘**coastal facility**’ includes a beach, pool, tidal pool, promenade, pavilion, playground, change-room, enclosure, shower, toilet, road, car park and boat shed situated within the coastal zone.
- (2) The City may –
 - (a) determine and indicate by means of a sign the times when a coastal facility may be entered and used;
 - (b) regulate the number of people entering and using a coastal facility;
 - (c) determine a fee for the entry to and use of a coastal facility; and
 - (d) prohibit entry to and use of a coastal facility.
- (3) An authorised official may refuse a person causing a nuisance admission to a coastal facility or order a person causing a nuisance to immediately leave the facility.
- (4) A person who has paid a fee contemplated in subsection (2)(c) must retain any proof of payment issued and produce it if required by an authorised official.
- (5) No person may –
 - (a) enter or attempt to enter a coastal facility –
 - (i) other than through an entry point where an entry point is indicated; or
 - (ii) after a sign or an authorised official advises that the coastal facility is full;
 - (b) enter, attempt to enter or remain in a coastal facility –
 - (i) outside the times when the facility may be used; or
 - (ii) if the City has prohibited such entry or use;
 - (c) enter or attempt to enter a cubicle or other accommodation occupied or in use by another person without the consent of the other person;
 - (d) open or attempt to open a cupboard or container unless authorised to do so by an authorised official or the person using it;
 - (e) impede or block access to a coastal facility.
- (6) An authorised official may remove from a coastal facility a person who contravenes a provision in this section.

20 Coastal closure

- (1) The authorised official may close or restrict access to an area of the beach area and coastal area if the official considers it necessary in the public interest, including, in the event of actual or anticipated –
 - (a) pollution;
 - (b) dangerous sea condition;
 - (c) severe weather;
 - (d) increased shark activity or shark bite;
 - (e) marine animal stranding;

- (f) relocation of an animal or plant;
 - (g) breeding of a coastal animal;
 - (h) facilitation of the exercising of a fishing permit;
 - (i) ship or boat stranding or wreck;
 - (j) salvage operation;
 - (k) coastal rehabilitation;
 - (l) construction, repair or maintenance;
 - (m) concern for public health, safety or well-being; or
 - (n) emergency.
- (2) No person may enter or be present in an area closed or restricted in terms of this section unless authorised by an authorised official.
- (3) An authorised official may take reasonable steps to remove a person who enters or remains in an area in contravention of subsection (2).

CHAPTER 6.
PUBLIC LAUNCH SITE
(ss 21)

21 Public launch site

- (1) In this section, 'public launch site' means a site designated by the competent authority and published on the City's website as a site where a vessel may be launched in the coastal zone, but excludes a privately used launch site.
- (2) No person may launch or operate a motorised vessel including a jet ski in the coastal zone unless—
- (a) the launch is from a public launch site;
 - (b) the person produces on demand to an authorised official all certificates, licenses and permits required by applicable law; and
 - (c) the vessel carries –
 - (i) the certification, permits and identification required by law;
 - (ii) all the safety equipment required for that category of vessel; and
 - (iii) a kill switch and the kill switch is securely attached to the skipper during the launch and always while at sea, unless the vessel has an engine capacity of less than 15HP.
- (3) No person may launch or operate a vessel in a manner or circumstance that causes harm, poses a risk to the coastal zone or any person or causes nuisance to any person.
- (4) If another law requires a vessel to have a life jacket aboard, no person may launch the vessel unless all occupants are wearing the prescribed life jacket.
- (5) A person entering or in a public launch site with or operating a vessel must make the documentation contemplated in subsection (2) and the vessel and its safety equipment available for inspection by an authorised official.
- (6) No person may at a public launch site –
- (a) block or impede the launch site except to the extent necessary to launch or recover their vessel, in an emergency or under direction of an authorised official;
 - (b) damage or deface infrastructure relating to the public launch site;
 - (c) park a vehicle, vessel or trailer –
 - (i) overnight; or
 - (ii) other than in parking place demarcated for a vehicle, vessel or trailers, unless otherwise directed by an authorised official;
 - (d) bathe, dive, snorkel or play;
 - (e) clean fish except where a fish cleaning facility is provided, or a fish cleaning site is designated in terms of section 11;
 - (f) sell or buy fish other than in a designated area in terms of section 11 or with permission of an authorised official; or
 - (g) dispose of fish waste, bait and bait packaging except in identified areas or containers designed for such waste disposal.

**CHAPTER 7.
ENFORCEMENT**
(ss 22-28)

22 Instruction to leave

- (1) An authorised official may instruct a person who is in contravention of this By-Law to leave and remain out of an area of the coastal zone.
- (2) Unless it is reasonable and justifiable to not do so, before issuing the instruction, the authorised official must give the person an opportunity to provide reasons why they should not be instructed to leave and remain out of an area of the coastal zone.
- (3) A person who fails to immediately comply with such an instruction is guilty of an offence.

23 Compliance notice

- (1) The authorised official 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.
- (2) 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 contravenes;
 - (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 a further offence and indicate the penalty; and
 - (h) state that, in the event of non-compliance with the notice, the City 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 persons 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.
- (3) The compliance notice may –
 - (a) instruct the person within a specified time to, in writing, inform the City what steps have been taken to comply with the notice;
 - (b) instruct a person at their cost to take specified action to the satisfaction of the City within a specified time to –
 - (i) cease, modify or control an activity or an activity causing, continuing or contributing to an adverse effect on the coastal zone, encroachment or unauthorised sea defence;
 - (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 unauthorised sea defence; and
 - (v) rehabilitate the affected environment.
- (4) Should the person on whom a compliance notice under subsection (3) or authorisation under section 10(3) was issued, fail to comply, or inadequately comply, with the compliance notice or authorisation, then the City may take measures that the City considers appropriate to remedy the situation and may authorise another person to take such measures.
- (5) The City may recover costs to the City, or an authorised person, for the measures to be undertaken under subsection (4), and all costs incurred as a result of acting under subsection (4), from any or all of the persons on whom the compliance notice or authorisation was issued. The costs contemplated in subsection (5) may be recovered by the City in terms of its Credit Control and Debt Collection Policy and the Credit Control and Debt Collection By-law, 2006.

24 Conditions of approval

- (1) The City, when granting an authorisation in terms of this By-Law, may impose reasonable conditions.
- (2) No person may contravene a condition of approval.

25 Withdrawal or amendment of an authorisation or condition of approval

- (1) The City may in writing withdraw or amend an authorisation or a condition of approval.
- (2) Before withdrawing or amending an authorisation or a condition of approval, the City must give advanced notice in writing to any person who would be materially and adversely affected and provide the person with a reasonable opportunity to make representations in writing.
- (3) If urgent action is necessary or it would be impractical to give advanced notice, the City may withdraw or amend an authorisation or a condition of approval, and give a person who would be materially and adversely affected an opportunity to make representations as soon as thereafter is reasonable.

26 Powers and functions of authorised officials

- (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.
- (2) Without a warrant, an authorised official may stop, enter and search any vessel, vehicle, premises or person if the authorised official has reasonable grounds to believe that an offence in terms of this By-Law has been or is being committed on or in such vessel, vehicle or premises if,
 - (a) the person in control of the vessel, vehicle or premises consents to such stop, entry, search or seizure; or
 - (b) the authorised official has reasonable grounds to believe that a warrant will be issued, if the authorised official 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 (2) does not apply, then an authorised official may stop, enter and search any vessel, vehicle, premises or person and may seize an article contemplated in subsection (5)(h) only on the authority of a warrant.
- (4) A judge in chambers may issue a warrant contemplated in subsection (3) on written application by an authorised official 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, an authorised official 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 authorised official, 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 authorised official, 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 authorised official 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 concerned in or is on reasonable grounds believed to be concerned in 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 an authorised official removes or seizes an article, the authorised official 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) An authorised official may without a warrant arrest a person who is on reasonable grounds believed to have committed an offence in terms of this By-Law if the arrest is reasonably necessary for the purposes of this By-Law.
- (9) An authorised official must exercise their powers and functions with strict regard for decency and order, and with regard for each person's right to dignity, freedom, security and privacy.

27 Impounding of vessel or vehicle

- (1) An authorised official may, without a warrant, seize and impound a vessel or vehicle 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 authorised official, at the time of the impoundment, must give the holder of the impounded vessel or vehicle a 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 pound;
 - (d) the impoundment fee; and
 - (e) a warning that the impounded vessel or vehicle may be sold to recover the impoundment fee and any fine, costs or damages.
- (3) The authorised official must cause an impounded vessel or vehicle to be taken to a designated pound where it must be retained and dealt with in terms of this section.
- (4) The City must release the impounded vessel or vehicle to the owner upon presentation of proof of ownership if, in relation to the offence contemplated in subsection (1) –
 - (a) a criminal charge is not laid, a fine is not issued 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 or vehicle is forfeited to the City if –
 - (a) a court orders such forfeiture; or
 - (b) the lawful owner of the vessel or vehicle 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 (4)(b)(iii) is not made within such time as the City may determine, and if no appeal has been lodged at the expiry of the time limit for an appeal, the City may sell an impounded vessel or vehicle and deal with any net proceeds in accordance with subsection (7).
- (7) Any net proceeds from the sale of an impounded vessel or vehicle must be applied as follows and in this order:
 - (a) the recovery of costs incurred by the City 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 (1); and
 - (c) return to the person who lawfully owned the vessel or vehicle at the time of the impoundment.
- (8) The City may determine an impoundment fee and designate a pound contemplated in this section.

28 Offences and penalties

- (1) A person is guilty of an offence if the person –
 - (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 an authorised official in terms of this By-Law;
 - (e) threatens, obstructs, hinders or uses abusive language to an authorised official or a person lawfully accompanying the authorised official in the exercise of a power conferred in terms this By-Law;
 - (f) when called upon by an authorised official to furnish information, furnishes false or misleading information;
 - (g) falsely holds himself or herself to be an authorised official or a person authorised to act on behalf of the City in terms of this By-Law.
- (2) A person guilty of an offence in terms of this By-law is liable to a fine, and upon conviction to a period of imprisonment not exceeding two years.
- (3) 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 City a vessel or vehicle impounded in terms of section 27.
 - (c) to pay the costs incurred by the City because of the contravention; and
 - (d) to pay damages for harm caused to another person or property within the coastal zone, which order shall have the force and effect of a civil judgment.

CHAPTER 8. GENERAL (ss 29-34)

29 Appeals

A person whose rights are effected by a decision made in terms of this By-law may appeal against that decision in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) by giving written notice of the appeal and reasons thereof to the Municipal Manager within 21 days of the date of the notification of the decision.

30 Delegation

A function, power or duty conferred on the City in terms this By-Law may be delegated or sub-delegated to an employee of the City in accordance with the system of delegation adopted by the Municipal Council of the City in accordance with section 59 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000).

31 Exemption

- (1) The City may in writing exempt a person, group of persons or an area of the coastal zone from the application of a provision or the whole of this By-Law for a specified period and the exemption may be subject to a condition stated in the exemption, and the City may withdraw or amend the exemption.
- (2) Where exemption was granted to a person or group of persons, proof of exemption must be retained on the person at all times while in the coastal zone.
- (3) The City must publish on its website an exemption that applies to an area of the coastal zone.

32 Indemnity

The City and authorised officials 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.

33 Transitional provisions

(1) A prohibition, instruction, permission, determination, condition or sign in terms of regulations in terms of s 10(1) of the Sea-shore Act 21 of 1935 applicable to the coastal zone of the City and in existence at the commencement of this By-Law, is deemed to be in terms of this By-Law, and where relevant is deemed to be a designation in terms of section 11.

(2) Subject to amendment in terms of section 21(1), a site listed as public launch site in terms of regulation 2 of the Management of Public Launch Sites in the Coastal Zone Regulations published in terms of the Coastal Management Act is regarded as a public launch site contemplated in section 21(1).

34 Short title and commencement

This By-Law is called the City of Cape Town Coastal By-Law, 2019