Cape Town, South Africa

Streets, Public Places and the Prevention of Noise Nuisances By-law, 2007

Legislation as at 28 September 2007

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Streets, Public Places and the Prevention of Noise Nuisances By-law, 2007
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Cape Town
South Africa

Streets, Public Places and the Prevention of Noise Nuisances By-law, 2007

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WHEREAS the City of Cape Town ("the City") may make and administer by-laws for the effective administration of such matters as the control of public nuisances, municipal roads, public places, traffic and parking;

AND WHEREAS aggressive, threatening, abusive or obstructive behaviour of persons in public is unacceptable to the City;

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

1. Definitions

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

"**beg**" means any request made by a person for an immediate donation of money or some other thing of value or otherwise. This definition does not include passively standing or sitting with a sign or other indication that one is seeking donations without addressing any solicitation to any specific person other than in response to an enquiry;

"**City**" means the City of Cape Town, a municipality established by the City of Cape Town Establishment Notice No. 479 of 22 September 2000 issued in terms of the Local Government:: Municipal Structures Act, 1998 (Act 117 of 1998) , as amended, or any structure or employee of the City of Cape Town acting in terms of a delegated or sub-delegated authority thereof or any duly authorised agent;

"**collection**" means the door-to-door collection of money or some other thing of value in terms of written permission obtained from the City;

"**heavy motor vehicle**" includes a truck, light truck, bus, horse-and-trailer, caravan, or any other like vehicle wherein it is possible to have persons residing, sleeping or committing any unlawful act or conduct;

"**kerb line**" means the boundary between the shoulder and the verge or, in the absence of a shoulder, the part between the edge of the roadway and the verge;

"**informal settlement**" means an area without formal services and with informal housing; Includes a settlement for residential purposes or a township for which no approval has been granted in terms of any law, or a township other than a formalised township as defined in section 1 of the Upgrading of Land Tenure Rights Act, 1991 (Act No. 112 of 1991), and any land which has been designated as land for a less formal settlement in terms of section 3(1) of the Less Formal Township Establishment Act, 1991 (Act No. 113 of 1991);

"**motor vehicle**" means any self-propelled vehicle and includes—

(a) a trailer; and

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

(i) any vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or

(ii) any vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person;

"**obstruction**" in relation to a road, means any motor vehicle or any other thing which blocks or is likely to block traffic flow; "overnight" means the period from 20h00 in the evening to 06h00 in the morning;

"**parking and related services**" means parking services, car cleaning services, car washing services, car security services, windscreen washing services and any other similar services;

"**peace officer**" means a law enforcement officer or traffic official of the City who has been declared a peace officer in terms of section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977), acting when on duty and properly identified as such;

"**public parking space**" means any space in a public place designated by the City for the parking of a motor vehicle;

"**public place**" means—

(a) a public road;

(b) any parking area, square, park, recreation ground, sports ground, sanitary lane, open space, beach, shopping centre on municipal land, unused or vacant municipal land or cemetery which has—

(i) in connection with any subdivision or layout of land into erven, lots or plots, been provided, reserved or set apart for use by the public or the owners or occupiers of such erven, lots or plots, whether or not it is shown on a general plan, plan of subdivision or diagram;

(ii) at any time been dedicated to the public;

(iii) been used without interruption by the public for a period of at least thirty years expiring after 31 December 1959; or

(iv) at any time been declared or rendered as such by the City or other competent authority; or

(c) a public transportation motor vehicle,

(d) but will not include public land that has been leased or otherwise alienated by the City;

"**public road**" means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes—

(a) the verge of any such road, street or thoroughfare;

(b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and

(c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

"**public transportation motor vehicle**" includes any train, bus, minibus or motor vehicle travelling on land, water or in the air, conveying members of the public at a fee;

"**roadway**" means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic which is between the edges of the roadway;

"**shelter**" means any structure that provides privacy or cover, that has one or more sides enclosed;

"**shoulder**" means that portion of a road, street or thoroughfare between the edge of the roadway and the kerb line;

"**sidewalk**" means that portion of a verge intended for the exclusive use of pedestrians;

"**street entertainer**" means a person who mimes, plays a musical instruments for entertainment or engages in other performing or visual arts;

"**vehicle**" means a device designed or adapted mainly to travel on wheels or crawler tracks and includes such a device which is connected with a draw-bar to a breakdown vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all the axles of a motor vehicle which is being salvaged other than such a device which moves solely on rails; and

"**verge**" means that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or the shoulder.

2. Prohibited behaviour

(1) No person, excluding a peace officer or any other official or person acting in terms of the law, shall —

(a) when in a public place—

(i) intentionally block or interfere with the safe or free passage of a pedestrian or motor vehicle; or

(ii) intentionally touch or cause physical contact with another person, or his or her property, without that person's consent;

(b) approach or follow a person individually or as part of a group of two or more persons, in a manner or with conduct, words or gestures intended to or likely to influence or to cause a person to fear imminent bodily harm or damage to or loss of property or otherwise to be intimidated into giving money or other things of value; or

(c) continue to beg from a person or closely follow a person after the person has given a negative response to such begging.

(2) Any person who blocks, occupies or reserves a public parking space, or begs, stands, sits or lies in a public place shall immediately cease to do so when directed by a peace officer or member of the Cape Town Metropolitan Police Department.

(3) No person shall in a public place—

(a) use abusive or threatening language;

(b) fight or act in a riotous or physically threatening manner;

(c) urinate or defecate, except in a toilet;

(d) bath or wash himself or herself, except—

(i) in a bath or shower; or

(ii) as part of a cultural initiation ceremony in an area where such a ceremony is taking place;

(e) spit;

(f) perform any sexual act;

(g) appear in the nude or expose his or her genitalia, except where designated by the City as areas where nudity is permitted, provided that this shall not apply to children below the age of seven;

(h) consume any liquor or drugs;

(i) be drunk or be under the influence of drugs;

(j) solicit or importune any person for the purpose of prostitution or immorality;

(k) engage in gambling;

(l) start or keep a fire, except an official or person duly authorised to do so or acting in terms of the law or in an area designated by the City to do so; or

(m) sleep overnight or camp overnight or erect any shelter, unless in an area designated for this purpose by, or with the written consent of the City, provided that this shall not apply to cultural initiation ceremonies or informal settlements.

3. Noise nuisance

No person shall in a public place—

(a) cause or permit to be caused a disturbance by shouting, screaming or making any other loud or persistent noise or sound, including amplified noise or sound; or

(b) permit noise from a private residence or business to be audible in a public place, except for the purposes of loudspeaker announcements for public meetings or due to the actions of street entertainers.

4. Street and door-to-door collections

No person shall collect or attempt to collect money in a public place, or organise or in any way assist in the organization of such collection, except with the written permission of the City and otherwise than in accordance with such conditions as may be determined by the City, which shall not disbar any person or organisation from collecting money from door-to-door.

5. Parking and related services

(1) The City may, after consideration and consultation, and implementing the necessary enabling licensing system, designate areas where no person shall, in exchange for money or some other thing of value or in anticipation thereof—

(a) direct the operator or occupant of a motor vehicle to a public parking space; or

(b) provide any other parking or related services in a public place.

(2) Notwithstanding subsection (1), the City may, subject to such requirements and conditions as determined by it, on application by a person or organisation representing such a person, permit such person, upon payment of a nominal fee, to direct the operator or occupant of a motor vehicle to a public parking space or to provide any other parking and other related service.

6. Prohibitions relating to motor vehicles

(1) No driver or person in control of a heavy motor vehicle shall park or leave such motor vehicle parked overnight in a public place in a residential area.

(2) No driver, person in control of a motor vehicle or passenger in the motor vehicle shall permit any amplified noise to emanate from the motor vehicle such that it is audible at a distance of more than 50 meters.

7. Objects causing an obstruction

No person, other than a peace officer or other official or person acting in terms of the law shall—

(a) deposit, pack, unpack or leave any goods or articles in a public place, or cause any goods or articles to be deposited, packed, unpacked or left in a public place, other than for a reasonable period during the course of the loading, off-loading or removal of such goods or articles; or

(b) in any way obstruct the pedestrian traffic on a sidewalk by bringing or allowing to be brought thereon any object or motor vehicle.

8. Trees causing an interference or obstruction

(1) Whenever there is upon any property any tree or other growth which interferes with overhead wires or is a source of annoyance, danger or inconvenience to persons using a public road, the City may by notice in writing order the owner or occupier of such property to prune or remove such tree or growth to the extent and within the period specified in such notice.

(2) Any person failing to comply with a notice issued in terms of subsection (1) shall be guilty of an offence.

(3) If any person fails to comply with a notice in terms of this section, the City may itself prune or remove the tree or growth at the expense of the person on whom the notice was served.

9. Trees in streets

(1) No person other than a duly authorised City official shall—

(a) plant a tree or shrub in a public road, or in any way cut down a tree or a shrub in a public road or remove it therefrom, except with the written permission of the City;

(b) climb, break or damage a tree growing in a public road; or

(c) in any way mark or paint any tree growing in a public road or attach any advertisement thereto.

(2) Any tree or shrub planted in a public road shall become the property of the City.

10. Goods, building materials, motor vehicle wrecks, dangerous objects

No person shall—

(a) without the prior written permission of the City or otherwise than in accordance with any conditions determined by the City when granting such written permission—

(i) leave, store, pack or unpack goods or cause or permit goods to be left, stored, packed or unpacked, or accumulate or cause to be accumulated in any public place or balcony or verandah erected beyond the boundary of a public road any building materials, motor vehicle wrecks, spare parts of motor vehicles, building, waste materials or scaffolding; or

(ii) bore or cut stone, slake or sift lime, or mix building materials in any public place; or

(b) leave or accumulate or cause to be left or accumulated in any public place, or permit to be placed in any public place from premises owned or occupied by him or her, any broken glass or other potentially dangerous object; or

(c) transport or cause or permit to be transported building materials, mixed or unmixed, on a public road in such a way as to damage the road.

11. Excavations in streets

(1) No person shall make or cause to be made an excavation or dig or cause to be dug a pit, trench or hole in a public road—

(a) except with the written permission of the City; and

(b) otherwise than in accordance with the requirements prescribed by the City.

(2) The provisions of subsection (1) do not prevent a person from erecting an umbrella or any other similar object in a public place during daylight, provided that the manner in which it is erected does not result in damage to the vegetation or anything forming part of the public place concerned.

12. Poison in streets and conveyance of animal carcasses and other waste

(1) No person other than an official of the City or an authorised person who administers legally approved weed-killers, herbicides, poisons or pesticides shall set or cast poison in any public road.

(2) No person shall carry or convey through a public road the carcass of an animal or any garbage, night-soil, refuse, litter, rubbish or manure—

(a) unless it is properly covered; and

(b) unless it is conveyed in such type of container as will not allow any offensive liquids or parts of the load to be spilt in the road.

13. Prohibition of certain activities in connection with objects

No person shall in a public place—

(a) including on a balcony or verandah erected beyond the boundary line of a public road, wash, clean or dry any object, including any clothing, except in an area designated by the City for that purpose;

(b) effect any repairs to a motor vehicle or boat, except where necessary for the purpose of removing such motor vehicle from the place where it was involved in an accident or has a breakdown unless it is in a designated taxi rank or unless—

(i) the motor vehicle or boat is in a designated taxi rank;

(ii) the motor vehicle or boat is owned by a person resident on premises immediately adjacent to a public road and such work is carried out by a person so resident, but not where a motor workshop is run for commercial purposes; or

(iii) the City has granted its prior permission in writing thereto, except where—

(aa) it has been carried on for a longer period than is, in the opinion of the City reasonably necessary for the completion thereof; or

(bb) it is, or the manner in which it is being carried out is, offensive or objectionable; or

(c) wash or clean a motor vehicle, except—

(i) in an area designated by the City for that purpose; or

(ii) where the owner of the motor vehicle has no alternative or cannot do so on their private property:

Provided that this shall not be permissible in a public parking area.

14. Drying of washing on fences on boundaries

No person shall dry or spread washing, bedding or other items in a public place or on a fence on the boundary of a public road except where conditions in an informal settlement are such that it is not possible to do otherwise.

15. Prohibition upon skating, rollerskating and dangerous acts

No person shall—

(a) on a public road skate on roller-skates or a skate-board or similar device except where permitted by the City;

(b) in a public place do anything which may endanger the life or safety of any person or animal, including—

(i) to shoot with a bow and arrow or catapult, or throw a stone, stick or other projectile in, onto or across a public road;

(ii) without the prior written permission of the City or otherwise than in accordance with any conditions determined by the City when granting such written permission or in contravention of any other applicable by-law, to use explosives or discharge fireworks;

(iii) except for a lawful purpose to discharge any firearm or air, gas or alarm gun or pistol unless—

(aa) the firearm or air, gas or alarm gun or pistol in question is discharged in any shooting range which complies with the provisions of any law applicable thereto; or

(bb) the firearm or air, gas or alarm gun or pistol in question is discharged for signaling the start of a race at an organised and controlled sports meeting, provided that blank cartridges only are fired thereby; or

(cc) the firearm or air, gas or alarm gun or pistol, or fireworks in question is discharged for a purpose and at a time and place approved in writing by the City.

16. Control of goods offered for sale

(a) The City may, after consideration and consultation and implementing the necessary enabling licensing system, designate public places, public roads or road intersections where no person shall, display or offer for sale any goods or produce except as may be prescribed by the City, provided this will not apply to the selling of newspapers at intersections or to the sale of goods by non-governmental organisations or developmental organisations which may apply for exemption for all their traders.

(b) Notwithstanding paragraph (a), the City may issue licenses for the sale of goods and produce and in so doing, the City may limit the number of permits for an area and stipulate such conditions as it may from time to time prescribe.

17. Bridges and crossings over gutters and sidewalks

No private crossing, pathway, bridge or culvert shall be made or built to or in front of any dwelling or other premises in any public place—

(a) except with the written permission of the City; and

(b) otherwise than in accordance with the requirements prescribed by the City.

18. Control of amusement shows and devices

(1) No person shall set up or use in any public place any circus, whirligig, roundabout or other side show or device for the amusement or recreation of the public—

(a) except with the written permission of the City;

(b) otherwise than in accordance with such conditions as may be determined by the City;

(c) unless suitable sanitary conveniences for both sexes of the staff and the public have been provided there; and

(d) if it is in any way dangerous or unsafe for public use.

(2) An authorised official of the City or a member of the Cape Town Metropolitan Police Department shall, for the purposes of inspection to ensure compliance with this section, at all reasonable times have free access to such circus, whirligig, roundabout or other sideshow or device.

19. Sleeping or residing in motor vehicles prohibited

No person shall, in a public place—

(a) sleep in a stationary motor vehicle except in dire emergency (or where such a person is the driver of a public transportation motor vehicle or is guarding the motor vehicle) or in a designated rest area; or

(b) reside in a motor vehicle for longer than twenty-four hours.

20. Display of street numbers

(1) The City may, by written notice—

(a) allot any number to any premises in any public road and direct the owner of such premises to display the number allotted to the premises and may also, in exceptional circumstances, prescribe the position where it is to be displayed, and the owner or occupier of such premises shall, within 30 days of the date of such notice affix the allotted number on the premises in accordance with such notice: Provided that any such number displayed on the premises shall be clearly visible and legible from a height of 1.5m above the centre line of the adjacent road or carriageway; and

(b) direct any owner to replace or repaint any digit of such number which has become illegible, obliterated or defaced.

(2) If the owner of any premises fails to comply with any directive in terms of a notice contemplated in subsection (1), the City may cause such directive to be executed and the owner shall be liable for the cost incurred by the City in having the directive executed.

(3) A statement signed by a duly authorised official of the City stating that the owner failed to comply with a directive in terms of a notice contemplated in subsection (1) and specifying the cost incurred by the City in executing such directive, shall be sufficient proof of the facts stated therein for purposes of summary judgement.

(4) The City may at its discretion allocate a number to a portion of premises, other than a building, or to vacant land which borders on a public road, and the provisions of subsections (1) and (2) shall apply *mutatis mutandis* in respect of such portion of premises or such vacant land.

21. Exemptions

(1) The City may, from time to time, on such conditions as it may determine, grant exemptions from the provisions of this By-law.

(2) The City may, on such conditions as it may determine, in writing, exempt from section 5(1) and 5(2) film crews or persons who, for purposes of photo shoots, media coverage or related activities, obstruct public places.

22. The city may act and recover costs

(1) Notwithstanding any other provision of this By-law, the City may—

(a) where the permission of the City is required before a person may perform a certain action or build or erect anything, and such permission has not been obtained; and

(b) where any provision of this By-law is contravened under circumstances in which the contravention may be terminated by the removal of any structure, object, material or substance, serve a written notice on the owner of the premises or the offender, as the case may be, to terminate such contravention, or to remove the structure, object, material or substance, or to take such other steps as the City may require to rectify such contravention within the period stated in such notice.

(2) Any person who fails to comply with a notice in terms of subsection (1) shall be guilty of an offence, and the City may, without prejudice to its powers to take action against the offender, take the necessary steps to implement such notice at the expense of the owner of the premises or the offender, as the case may be.

23. Offences and penalties

(1) Any person who contravenes or fails to comply with any provision of this By-law or disobeys any instruction by a peace officer or a member of the Cape Town Metropolitan Police Department, enforcing this By-law, shall be guilty of an offence and with the exception of a contravention of sections 2(3)(g), (h), (i), (j) and (k), where there is a maximum penalty as provided for in analogous national legislation, be liable to a fine or imprisonment for a period not exceeding six months, or to both a fine and such imprisonment.

(2) Any person who contravenes sections 2 (3) (g), (h), (i), (j) or (k) shall be liable to a fine as the court may deem fit to impose or to imprisonment as the court may deem fit to impose or to both a fine and imprisonment, not exceeding the maximum penalty as provided for in analogous national legislation. Where there is no maximum penalty as provided for in analogous national legislation the maximum penalty provided for in subsection (1) applies.

(3) A court convicting a person of an offence under this By-law may impose alternative sentencing in place of a fine or imprisonment.

24. Repeal of existing by-laws

(1) The laws set out in Schedule 1 are repealed to the extent set out in that Schedule.

(2) In the event of older legislation being inconsistent with this By-law, the provisions of this By-law shall prevail, to the extent of the inconsistency.

25. Short title

(1) This By-Law is called the By-Law Relating to Streets, Public Places and the Prevention of Noise Nuisances, 2007.

(2) In the event of any conflict between the English text of this By-Law and the text thereof in another language, the English text shall prevail.

Schedule 1

Number and year of By-law	Title	Extent of repeal
P.N. 88/1999 Date 26/02/1999	City of Tygerberg: By-law relating to Streets	The whole
P.N. 101/1968 Date 02/02/1968	Pinelands Municipality: Regulations relating to Streets	The whole
P.N. 317/1999 Date 10/09/1999	Oostenberg Municipality: By-law relating to the Prevention of Nuisances	The whole
P.N. 1086/1975 Date 17/10/1975	Milnerton Municipality: By-law for the Convenience of Persons using Streets and Public Places	The whole
P.N. 137/1992 Date 20/03/1992	Milnerton Municipality: By-law relating to Nuisances	The whole
P.N. 474/1979 Date 15/06/1979	Durbanville Municipality: By-law for the Convenience of Persons using Streets and Public Places	The whole
P.N. 419/1993 Date 30/07/1993	Brackenfell Municipality: Standard By-law relating to Streets	The whole
P.N. 871/1975 Date 25/7/1975	Fish Hoek Municipality: By-law relating to Nuisances	The whole
P.N. 374/1989 Date 21/04/1989	Fish Hoek Municipality: Standard By-law relating to Streets	Only the portion applicable to the Standard By-law relating to Streets
P.N. 118/1988 Date 5/02/1988	Kraaifontein Municipality: Standard By-law relating to Streets	The whole
P.N. 29/1988 Date 8/01/1988	Bellville Municipality: Standard By-law relating to Streets	The whole

Number and year of By-law	Title	Extent of repeal
P.N. 55/1988 Date 22/01/1988	Kuils River Municipality: Standard By-law relating to Streets	The whole
P.N. 536/1990 Date 24/08/1990 P.N. 959/1989 Date 15/12/1989	Milnerton Municipality: Standard By-law relating to Streets and Amendment of the Standard By-law relating to Streets	The whole
P.N. 27/1985 Date 11/01/1985	Cape Town Municipality: By-law relating to Shop Trolleys	The whole
P.N. 1103/1977 Date 11/11/1977 Amended by P.N. 271/1995 Date 9/06/1995	Cape Town Municipality: By-law for the Convenience of Persons using Streets and Public Places	The whole
P.N. 134/1974 Date 1/2/1974 Amended by P.N. 218/1975 Date 31/01/1975 and P.N. 271/1978 Date 10/03/1978 and P.N. 396/1980 Date 11/04/1980	Cape Town Municipality: Regulations relating to Nuisances	The whole
P.N. 294/1917 Date 13/12/1917 Amended by P.N. 134/1944 Date 27/04/1944	Cape Town Municipality: Regulation to Prevent Spitting in Public Places	The whole
P.N. 135/1909 Date 3/02/1909	Cape Town Municipality: Additional Regulation	The whole
P.N. 776/1903 Date 26/08/1903	Cape Town Municipality: Regulating and Preserving Public Parks, Avenues, Botanical Gardens and for Planting and Preserving Trees and Shrubs	The whole
P.N. 539/1964 Date 31/07/1964	Cape Town Municipality: Regulation No. 1982. For Preventing Conditions likely to give Shelter for Vagrants or to threaten Health or Safety	The whole
P.N. 586/1961 Date 21/07/1961	Cape Town Municipality: Regulation No. 1974. For the Control of Fountains	The whole

Number and year of By-law	Title	Extent of repeal
P.N. 714/1955 Date 2/12/1955 Amended by P.N. 503/1962 and P.N. 547/ 1962 and P.N. 5/1969 and P.N. 745/1970	Cape Town Municipality: Regulation for the Control of Street Collections	The whole
P.N. 1117/1973	Cape Town Municipality: Traffic Regulations	Section 59
P.N. 343/1962	Fish Hoek Municipality: Regulations for the Control of Door-to-Door Collections	The whole
P.N. 760/1959	Simons Town Municipality: Regulations for the Control of Door-to-Door Collections	The whole
P.N. 1019/1974 Date 25/10/1974	Bellville Municipality: Regulations relating to Nuisances	The whole
P.N. 376/1997 Date 30/10/1997	South Peninsula Municipality: By-law for the Control of Fireworks	The whole