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**Cape Agulhas
South Africa**

Refuse Removal By-law, 2005

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To regulate the refuse removal system of the municipality.

1. Definitions

Unless inconsistent with the context:—

"**agricultural premises**" means premises zoned as such in terms of a zoning scheme and includes premises to which an undetermined zoning has been attached;

"**Council**" means the municipal council of the municipality;

"**engineer**" means the employee of the municipality in charge of solid waste management;

"**hazardous waste**" means medical waste and any refuse, waste, matter or substance which may be hazardous or harmful to the environment, to persons or to other living organisms or which may cause pollution or which, in the opinion of the engineer, constitute hazardous waste;

"**municipality**" means the Municipality of Cape Agulhas;

"**owner**" also means lessee, occupier, householder, the person in control of any premises, or any person who obtains a benefit from the premises or is entitled thereto;

"**refuse**" means any fruit or vegetable peels, fruit or vegetable waste, general domestic waste as well as vegetable garden refuse which is of such size that it may be deposited in a refuse bag or refuse bin, or any other matter which in the opinion of the engineer constitutes refuse;

"**refuse removal system**" means a system by means of which refuse, waste or hazardous waste is removed by the municipality, a municipal entity, a private contractor with the Council or a community based service provider;

"**Systems Act**" means the Local Government: Municipal Systems Act, 2000 ([Act 32 of 2000](#));

"**Tariff Policy By-law**" means the Tariff Policy By-law adopted by the Council and published in Provincial Gazette;

"**trade premises**" means any premises zoned for other purposes than single residential purposes, agricultural purposes or undetermined in terms of a zoning scheme, but includes single residential premises where commercial activities are allowed in terms of an approval granted by the Council, and

"**waste**" means any matter or substance which cannot be classified as refuse or hazardous waste, and includes such materials as car parts, spare parts, stones, rocks, sand, building materials, building rubble or other materials utilised in the erection of buildings, oils, lubricants, liquids or similar substances.

2. Application

- (1) The provisions of this by-law do not derogate from the provisions of any other legislation which provides for the removal or disposal of specific types of refuse or waste as defined in that legislation.
- (2) This by-law binds any organ of state.

3. Refuse and waste removal services provided by the Council

- (1) The Council provides refuse and waste removal services, either by itself, or by means of private contractors, municipal entities, or community based service providers.
- (2) Owners of premises where a body corporate is in existence, trade premises and agricultural premises are responsible for making independent arrangements for the removal of refuse and waste, but may, in areas where the Council provides a refuse and waste removal service, apply to the Council to enter into an agreement for the removal of refuse or waste by the Council.
- (3) Owners of premises may apply for additional receptacles of the type utilised in that particular area and, if approved, removal of refuse by means of such a receptacle will be subject to the terms and conditions imposed by the Council.

4. Retention of existing refuse removal systems

On the date of the coming into effect of this by-law:—

- (a) all existing refuse removal systems in operation in the area of the municipality, with the exception of refuse removal systems which are in the process of being amended, will be retained, and
- (b) all agreements entered into with the Council in respect of a refuse removal service rendered by the Council, will continue in terms of the provisions thereof.

5. Amendment of existing refuse removal systems

- (1) The Council may, either on its own initiative or at the request of residents, in respect of a specifically defined area, amend any existing refuse removal system, provided that the extent of the amendment does not fall within the scope of the provisions of section 77 of the Systems Act.
- (2) No refuse removal system will be considered for amendment unless:—
 - (a) a process of public notification and comment had been completed in respect of the area concerned;
 - (b) the amended refuse removal system is practicable and cost-effective;
 - (c) the amended refuse removal system has as its objective to at least, prevent the proliferation of waste, minimise waste and reduce waste to be removed.
- (3) A proposal by residents for the amendment of an existing refuse removal system in an area, must take into consideration the provisions of subsection (2)(b) and (c) and, in addition, must contain proposals in regard to future re-use, recovery and recycling of waste generated in the area.
- (4) Any proposal as contemplated in subsection (3), must be in respect of an area with clearly defined natural boundaries.
- (5) When an amended system of refuse removal for an area is finally approved by the Council, the Council will adopt a set of provisions in respect of the additional terms of that particular refuse removal system and area not contained in this by-law, and publish it as a schedule to this by-law.
- (6) When published, a set of provisions as contemplated in subsection (5), will become part of this by-law and will be effective in respect of the area for which it was published.

6. Powers of the Council in relation to refuse and waste removal

The Council may:—

- (a) in respect of the approval in terms of town planning legislation of new developments, redevelopments and subdivisions require:—
 - (i) that provision be made for the storage, handling and safeguarding of refuse and waste;
 - (ii) that new businesses and industries submit operational plans for refuse and waste minimisation, and

- (iii) that the operational plans contemplated in subparagraph (ii), be implemented when required by the Council.
- (b) require that private refuse and waste removals be scheduled on days and times approved by the Council.
- (c) where in its opinion the number or size of refuse bins, bags or other receptacles used by an owner is inadequate to cope with the amount of refuse or waste generated on the premises, provide or require from the owner to provide, additional bins, bags or receptacles in accordance with such terms and conditions as the engineer may impose.
- (d) where in its opinion the frequency of refuse removals from a premises is inadequate and may lead to the creation of a nuisance or a danger to health, provide, or require from the owner to provide, refuse removals at a frequency as may be determined by the engineer and in accordance with such terms and conditions as the engineer may impose.

7. Disposal of refuse and waste

No person may dispose of refuse or waste in any manner unless it is:—

- (a) in accordance with the terms and conditions of a refuse removal system approved or provided by the Council;
- (b) in accordance with an agreement entered into between the owner of premises and the Council, or
- (c) at or in a place or a container that the Council has set aside for such purpose, and then only in accordance with a notice which indicates the conditions subject to which refuse or waste may be so deposited.

8. Disposal of refuse, waste and hazardous waste

No person may:—

- (a) deposit any waste or hazardous waste in a refuse bin, street refuse bin or any bag to be removed by the Council;
- (b) burn refuse, waste or hazardous waste, except in an approved incinerator, or
- (c) dispose of hazardous waste without the prior permission of the Council, and then only in accordance with the conditions and requirements specified in such approval.

9. Storage of waste and hazardous waste

(1) No person may store waste awaiting disposal:—

- (a) (i) on any premises unless the premises is zoned or approved in terms of a town planning scheme for a use where the materials comprising such waste, are allowed, or
- (ii) unless the engineer has granted permission for the temporary storage of the waste, and then only in accordance with the conditions imposed by the engineer for the storage of such waste;
- (b) unless the waste is stored in such a manner that adequate measures are in place to prevent leakage, seepage, pollution of the air or ground.

(2) No owner of premises may store, or allow to be stored, on such premises, hazardous waste awaiting disposal:—

- (a) (i) unless the premises is zoned or approved in terms of a town planning scheme for a use where the materials or ingredients comprising such hazardous waste, are allowed, or
- (ii) unless the Council has granted permission for the temporary storage of the hazardous waste, and the only in accordance with the conditions imposed by the Council;

- (b) unless the hazardous waste is stored in a sealed, impervious container, and adequate measures are in place to prevent tampering by unauthorised persons.

10. Transport of refuse, waste and hazardous waste

- (1) No person may transport refuse or waste by any means, unless the refuse or waste is covered or contained in a receptacle so as to prevent spillage, seepage, leakage or being blown away by the wind.
- (2) No owner of premises may transport, arrange for, or allow the transportation of, hazardous waste from such premises unless written proof is provided in every instance from the person in charge of a facility approved by the Council where such hazardous waste is disposed of; such proof to be retained by the owner and made available for inspection for at least one year after the date of such disposal.
- (3) No person who transports hazardous waste by any means, may:—
 - (a) dispose of such hazardous waste at or in any place other than at a facility approved by the Council;
 - (b) transport such waste unless it is in a sealed container, or
 - (c) allow such hazardous waste to spill, leak or seep from any container.

11. Entry upon landfill sites, drop off sites and other facilities

- (1) Every person who enters upon a landfill site, drop off site or other facility provided by the Council in respect of waste management, must comply to the instructions for use and conditions of entry to the site displayed by means of a notice at the entrance.
- (2) A person who does not comply to the contents of a notice to the entrance of a landfill site, drop off site or other facility in respect of waste management, is guilty of an offence.

12. Removal of refuse

- (1) Only refuse may be deposited in refuse bins and refuse bags which are removed by the Council.
- (2) In those residential areas where only refuse bins are utilised:—
 - (a) bins may only be put out on the sidewalk on those days that refuse is removed;
 - (b) the refuse which is put out but not deposited in a bin, will not be removed;
 - (c) bins may not be filled to such an extent that the lid cannot be closed properly;
 - (d) only bins prescribed by the Council may be used and removed, and
 - (e) owners are responsible for the regular, thorough and effective cleansing of refuse bins, so as to prevent conditions favourable for fly breeding, odours, etc.
- (3) In areas where the Council provides refuse bins, the following is applicable in addition to subsection (2):—
 - (a) bins will remain the property of the Council;
 - (b) bins may not be utilised for any other purpose than for the depositing of refuse;
 - (c) nothing which may cause damage to a bin may be deposited therein;
 - (d) bins may not be removed from the premises to which it had been allocated, and
 - (e) the Council may hold the owner responsible for the cost of replacing a bin if such bin had been lost or damaged through negligence of the owner.
- (4) In areas where refuse is removed by means of bags:—
 - (a) refuse which is not in bags as prescribed by the Council, will not be removed;

- (b) refuse may only be put out on the sidewalk on those days that refuse is removed;
 - (c) the owner must ensure that the bags are placed in such a position that the contents are secured, as the contents of damaged bags will not be removed;
 - (d) the Council determines the maximum number of bags which may be put out on any day that refuse is removed, and
 - (e) the owner must ensure that sharp objects which may cause harm to passers-by and municipal employees, do not protrude from the bags.
- (5) In areas where refuse is removed by means of bags supplied by the owner, only the type of bags prescribed by the Council, may be utilised.

13. Dumping and littering prohibited

- (1) No person may dump or accumulate any refuse or waste in any street, public open space, vacant land, body of water, river or stream.
- (2) No person may throw away or leave any object in a street, public place or vacant property.

14. Tariffs

- (1) The Council determines and levies the tariffs in respect of services rendered by the municipality in terms of the Tariff Policy By-law.
- (2) No person shall be entitled exemption from or a reduction in tariffs determined by the Council, merely on the grounds that such person makes limited use of the service rendered by the municipality.

15. Transitional arrangements

A person who can prove that an approval was granted in terms of any by-law contained in Schedule 2, may continue to act in terms of that approval, provided that:—

- (a) the conditions imposed in terms of the original approval will remain in force;
- (b) the original approval will be valid only in respect of the premises for which it was granted, and
- (c) no approval may be transferred from the original applicant to another person.

16. Offences and penalties

A person who contravenes a provision of this by-law, or fails to comply with a condition or notice legally issued in terms of this by-law, is guilty of an offence and on conviction liable to the payment of a fine.