Swartland, South Africa

Parking Management By-law, 2016

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Swartland
South Africa

Parking Management By-law, 2016

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Under the provisions of section 156(2) of the Constitution of the Republic of South Africa, 1996, the Swartland Municipality enacts as follows—

1. Definitions

In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa, the English text prevails in the event of an inconsistency between the different texts and unless the context otherwise indicates—

"**authorised official**" means—

(a) a traffic officer appointed under the Road Traffic Act, No. 93 of 1996;

(b) a member of the South African Police Services as defined in the South African Police Services Act, No. 68 of 1995

(c) a peace officer contemplated by section 334 of the Criminal Procedure Act, No. 51 of 1977;

(d) an employee of the municipality or any other person who is appointed or authorised thereto by the municipality to perform any act, function or duty related to the provisions of this by-law, or exercise any power in terms of this by-law.

"**caravan**" means any vehicle permanently fitted out for the use by persons for living and sleeping purposes, whether or not such vehicle is a trailer.

"**motor vehicle**" means any self propelled vehicle and includes a trailer, semi-trailer, a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed and adapted to be propelled by means of such pedals, engine, or motor, or both such petals and motor, but does not include a vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or a vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted, for use of any person suffering from some physical defect or disability and used solely by that person;

"**municipality**" means the municipality of Swartland established in terms of section 12 of the Local Government: Municipal Structures Act, No. 117 of 1998, and includes duly authorised agent, service provider 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 agent service provider or employee;

"**park**" means to keep a vehicle, whether occupied or not, stationary for a period of time longer than is reasonably necessary for the actual loading or unloading of persons or goods, but does not include any such keeping of a vehicle by reason of a cause beyond the control of the person in charge of such vehicle, and "parking" has a corresponding meaning;

"**notice, notice board or sign**" means an adequate notice in two of the three official languages of the Province, or as acknowledged by the municipality, erected or posted in a prominent position or positions and maintained in a legible state. It includes an emblem board as approved by the municipality;

"**parking attendant**" means an appointed person who on his own initiative offers a service to the public, whether in expectation of a reward or out of goodwill, at the request or with the consent of the person in charge of a vehicle, to supervise or render assistance while such vehicle is being parked or in the employ of an organisation who provide a parking attendant service;

"**parking ground**" means any area of land set aside by the municipality, or any area controlled by, or of which the municipality has gained control, as a parking ground or garage for the parking of vehicles therein by members of the public, whether or not charges are prescribed by this by-law for use thereof;

"**parking space**" means an area demarcated by means of parking lines, a parking bay painted on a street or otherwise indicated;

"**public road or street**" means any road, street, cycle path, thoroughfare, parking bay or any other place and includes—

(a) the verge of any such public road;

(b) any foot path, sidewalk or similar pedestrian portion of a road reserve;

(c) any bridge, ferry or drift traversed by any such public road;

(d) any other object belonging to such public road, which has at any time been:

(i) dedicated to the public,

(ii) used without interruption by the public for a period of at least 30 years,

(iii) declared or rendered such by a municipality or other competent authority, or

(iv) constructed by a local authority; and

(e) any land, with or without buildings or structures thereon, which is shown as a public road on—

(i) any plan of subdivision or diagram approved by the municipality or other competent authority and acted upon,

(ii) any general plan as defined in the Land Survey Act, No. 8 of 1997, registered or filed in a deeds registry or Surveyor General's office, unless such land is on such plan or diagram described as a private public road;

"**Road Traffic Act**" means the National Road Traffic Act, No. 93 of 1996;

"**road traffic sign**" means any sign erected or given to enhance road safety, traffic signs are boards with letters or sign thereon to warn or inform drivers of vehicles or pedestrians;

"**stop**" means to keep a vehicle, whether occupied or not, stationary for a period of time no longer that is reasonably necessary for the actual loading or off-loading of persons or goods, but does not include any such stopping by reason of a cause beyond the control of the driver of such vehicle;

2. Purpose of by-law

The purpose of this by-law is to achieve a safe environment for the benefit of residents within the area of jurisdiction of the municipality, and to provide for the supply, regulation and control of parking in the area of jurisdiction of the Swartland municipality.

3. Application

(1) This by-law shall apply on parking spaces and parking grounds situated on municipal property and shall be valid in the area of jurisdiction of the municipality in so far as it is applicable and not inconsistent with or excluded by the National Road Traffic Act, No. 93 of 1996. or any other Act.

(2) If a provision of this by-law is contrary to any other by-law of the municipality, the most restrictive by-law shall be applicable.

Chapter 1
GENERAL PROVISIONS RELATING TO PARKING

4. Control of parking

(1) Whenever the public or a number of persons are entitled or allowed to use as a parking place an area of land, including land which is not part of a public road or a public place, an authorised official may, in cases of emergency or when it is desirable in the public interest, direct and regulate traffic thereon.

(2) The municipality may manage parking and collect fees related to parking or appoint a service provider to manage parking and to collect fees related to parking.

(3) No person may without the prior written approval of the municipality erect or place any sign or notice in any position or place indicating that parking in any parking space is either reserved for a person or a class of persons.

(4) The municipality may operate a parking management system in areas and during times and against payment of the fees determined by the municipality.

5. Work zone permits

Subject to any conditions the municipality may impose, a work zone parking permit may be granted for parking or other building or construction purposes in a parking space or parking ground or on the verge of a road or in the road reserve if the municipality is satisfied that—

(a) the part of the road or the area referred in subsection (1) is adjacent to the site of the proposed building or construction work;

(b) the carrying out of the building or construction work is lawful; and

(c) having regard to the nature of the building or construction work and the characteristics of the site of the work, it is not reasonably practical for all work activity involving vehicle loading and unloading and associated vehicle movements to be confined within the site.

6. Municipal works parking permit

Subject to conditions the municipality may impose, a municipal works parking permit may be granted to allow a person to park one or more vehicles in a designated parking space, and for a period specified in the permit despite an indication on an official traffic sign to the contrary and despite the fact that paid parking would otherwise apply to the space if the person is—

(a) an employee, contractor or agent of the municipality; and

(b) parking the vehicle or vehicles in the space—

(i) for the purpose of carrying out work for or on behalf of the municipality; and

(ii) in the course of carrying out his or her duties for on behalf of the municipality.

7. Reserved parking

(1) The municipality may reserve parking areas for the disabled, diplomatic corps; South African Police Services and any other groups identified by the municipality, and may designate such areas by notice or road signage and may impose conditions relating to the issue of special parking facility permits.

(2) No person may stop, park or leave a vehicle at any time in any designated parking space other than a vehicle displaying a designated parking permit or a vehicle used by a disabled person displaying a

valid disabled permit issued in terms of regulation 305(A) of the National Road Traffic Regulations, 2000.

8. Resident parking permits

Subject to any conditions the municipality may impose, a resident parking permit may be granted to persons—

(a) who reside in a residence—

(i) situated on a section of road in circumstances where parking immediately adjacent to the residence is regulated by time; and

(ii) situated on a section of road in circumstances where the issue of the permit would not unduly impede the flow of traffic either on the road or in the area; and

(b) whose residence does not have and cannot reasonably provide off-street parking.

9. Parking in a loading zone

(1) No person may allow, subject to subsections (2) and (3), a vehicle to remain stationary in a loading zone—

(a) between the hours of 07h00 and 16h30 on Mondays to Saturdays, except where such day is a public holiday;

(b) between the hours of 07h00 to 12h00 on Sundays, except where such day is a public holiday; or

(c) between other restricted hours as may be specified in respect of a particular loading zone by a road traffic sign or marking.

(2) No person may allow a vehicle, other than a goods vehicle, to remain stationary in a loading zone for more than ten minutes continuously, except while actually loading or off-loading persons or goods.

(3) No person may allow a goods vehicle to remain stationary in a loading zone for more than ten minutes continuously, except while the vehicle is being actually loaded or off-loaded.

(4) An authorised official may however, request the immediate removal of a vehicle from a loading zone even if the vehicle has not been stationary therein for longer than the maximum period allowed.

10. Parking of heavy vehicles, trailers and caravans

(1) No person shall park—

(a) a motor vehicle with a tare exceeding 3500 kg;

(b) a trailer not attached to a vehicle;

(c) a semi-trailer; or

(d) a caravan not attached to a vehicle

on a public road or road reserve within the jurisdiction of the municipality or property of the municipality for a period of more than two hours between 06h00 and 19h00 daily.

(2) No person shall park a vehicle contemplated in subsection (1) (a) to (d) on a public road or road reserve within the jurisdiction of the municipality or property of the municipality between 19h00 and 06h00 daily.

(3) The provisions of subsections (1) and (2) shall not apply—

(a) when a temporary parking permit has been issued by the municipality; or

(b) when such vehicle, trailer or caravan is parked in a parking area designated therefor.

(4) The municipality may on application, issue a temporary parking permit to vehicles and trailers, which must park on public roads or road reserves for specific periods, because of agricultural, general heavy duty transport, business or industrial activities.

(5) Whenever a vehicle is parked in contravention of subsections (1) or (2), it is deemed that the owner thereof has parked such vehicle, unless the contrary is proved.

11. Stopping of vehicles

(1) Except in order to avoid an accident, or in compliance with a road traffic sign or with a direction given by an authorised officer, or for any cause beyond the control of the driver, no person shall stop a vehicle on the roadway of a public road—

(a) alongside or opposite an excavation or obstruction on the public road if other traffic would be obstructed or endangered by such stopping;

(b) within any tunnel or subway or on any bridge or within six metres of any tunnel, subway or bridge;

(c) on, or within six metres from the beginning or end of, any part of such roadway where the normal width thereof has for any reason been constricted;

(d) in contravention of any road traffic sign;

(e) on the right-hand side of such roadway facing oncoming traffic;

(f) alongside or opposite any other vehicle on such roadway where such roadway is less than nine metres wide;

(g) within the railway reserve at a level crossing;

(h) within nine metres of his or her approaching side of a pedestrian crossing demarcated by appropriate road traffic signs; or

(i) in any other place where the stopping of a vehicle would or would be likely to constitute a danger or an obstruction to other traffic.

12. Parking of vehicles

(1) No person shall park a vehicle on a public road—

(a) in contravention of any road traffic sign;

(b) in any place referred to in section 11;

(c) on the same side as a fire hydrant within an area bounded by the centre-line of the roadway and lines at right angles to such centre-line one and a half metres on either side of the hydrant, if such hydrant is clearly visible to and recognizable as such by drivers of moving vehicles, or if it is indicated by an appropriate road traffic sign;

(d) in any place where the vehicle would obscure any road traffic sign;

(e) in such manner as to encroach upon the sidewalk, if any; or

(f) in such manner as to obstruct any private or public vehicular entrance to such road.

(2) The provisions of subsection (1)(e) shall not apply to any vehicle, other than a motor vehicle, while it is being used in carrying on the business of street vendor, pedlar or hawker, unless it exceeds such maximum weight, height, length or mass as may be prescribed by the municipality.

(3) No person shall park a vehicle on any portion of the roadway (excluding the shoulders) of a public road outside an urban area or with any part of such vehicle within one metre of the edge of such roadway except in a parking place demarcated by an appropriate road traffic sign.

(4) No person shall park a vehicle on the roadway of a public road within an urban area—

(a) within nine metres of the side from which he or she approaches a pedestrian crossing demarcated by appropriate road traffic signs, unless such parking is permitted by appropriate road traffic signs;

(b) within five metres of any intersection unless such parking is permitted by a road traffic sign;

(c) upon or over the actuating mechanism of a traffic signal;

(d) (i) with the outside of any left-hand wheel thereof more than 450 millimetres within the roadway; or

(ii) where the public road concerned is restricted to vehicles moving in one direction and the vehicle is parked on the side of the roadway, with the outside of any right hand wheel thereof more than 450 millimetres within the roadway, unless such parking is permitted by an appropriate road traffic sign; or

(e) which is less than five and a half metres wide unless the public road concerned is restricted to vehicles moving in one direction and such parking is permitted by appropriate road traffic signs.

(5) No person shall park a motor vehicle on a traffic island or in a pedestrian mall or pedestrian lane.

(6) Whenever a vehicle has been parked in contravention of any provision of this by-law or in contravention of or in disregard of the directions of any road traffic sign or notice board as prescribed in this by-law, such vehicle may be removed or caused to be removed and impounded by an authorised officer, and unless the vehicle has been so parked in the course of a theft thereof, the owner shall bear the costs of such removal and impoundment.

13. Prohibited conduct

No person may—

(a) remove, disfigure, obscure or in any manner damage or interfere with a notice, notice-board, sign or other thing placed by the municipality in a parking area;

(b) drive a vehicle negligently or in a manner causing danger to the public or to another vehicle in a parking area;

(c) clean or wash a vehicle in a parking ground or parking space;

(d) park or allow a vehicle to be parked in such a position in a parking space or parking ground that is likely to obstruct or to impede the movement of other vehicles or persons;

(e) park or allow a vehicle to be parked in a parking space or parking ground for the purposes of advertising, sale or rental.

14. Abandoned vehicles

(1) Any motor vehicle which has been left in a metered parking space, or a parking ground or in a parking garage for a continuous period of 7 days or more may be removed under the direction of the Director: Protection Services, or any other officer authorised by him.

(2) The vehicle shall be deemed to be an abandoned vehicle and shall be dealt with in accordance with the procedures prescribed in terms of regulation 320 of the National Road Traffic Regulations, 2000, provided that such vehicle may not be sold unless a court order from a competent court has been obtained.

Chapter 2
TAXI PARKINGS

15. Taxi parking

(1) A driver of a taxi may—

(a) park a taxi at a designated parking place or taxi holding area only and only for the purpose of conducting business directly related to the taxi; or

(b) pick up or drop off passengers only at a designated parking place or a taxi stopping place provided.

(2) In emergencies or at recreational and other similar functions, the municipality may set aside temporary taxi facilities suitable for the parking and stopping of taxis.

16. Use of taxi ranks

(1) A driver of a taxi—

(a) may park a taxi at the taxi rank specified on the rank access token issued with respect to that taxi, if space is available and only for the purpose of conducting business directly related to the taxi; and

(b) must, if no space is available, remove and park the taxi at a holding area.

(2) The driver must, when plying for hire at a taxi rank, do so in a queue and must—

(a) position his taxi in the first vacant place available in the queue immediately behind any other taxi already in front; and

(b) move his taxi forward as the queue moves forward.

(3) No person may park or stop a taxi which is not in good working order as required by the Act, in a taxi rank, or cause or permit the taxi to remain in a rank.

(4) No person may park a vehicle or allow a vehicle to remain stationary in a taxi rank except a taxi in possession of a valid operating license and for which a rank access token, specifying the rank, has been issued for the year in question.

17. Behaviour prohibited at a taxi rank

A person who causes a disturbance or behaves in a riotous or indecent manner commits an offence in terms of this by-law and may be removed from a queue, taxi rank or the vicinity of a taxi facility by any authorised official.

Chapter 3
PARKING ATTENDANTS

18. Parking attendants

(1) No person may, in exchange for money or some other thing of value or in anticipation thereof—

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

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

(2) Notwithstanding subsection (1), the municipality may, subject to such requirements and conditions as determined by it on application by a person or organisation, permit such person or organisation to render the service of parking attendant.

19. Conduct of persons acting as parking attendants

No person may—

(a) force or demand from any person to make use of his services; or

(b) damage or threaten to damage any vehicle for not receiving a donation or fee.

Chapter 4
GENRAL PROVISIONS

20. Compliance and enforcement

The Director: Protection Services of the municipality is responsible for the implementation and administration of this by-law and may delegate in writing any power or duty granted to him to a competent official in his directorate.

21. Notice of compliance

(1) An authorised official may issue and serve a notice of compliance on any permit holder or person not complying with any provision of this by-law, calling upon such person to comply with the provisions of this by-law.

(2) A compliance notice must stipulate—

(a) the provisions of the by-law that is contravened;

(b) the act or omission constituting non-compliance;

(c) the measures which must be taken to comply;

(d) the date or time by which compliance must be achieved, where applicable; and

(e) the possible consequences of non-compliance.

22. Closure of parking

Notwithstanding anything to the contrary in this by-law, the municipality may, when necessary, close any parking space or parking ground and must indicate the fact of such closure at the entrance of the parking space or parking ground.

23. Exemptions

(1) Notwithstanding any other provision contained in this by-law, the driver or person in charge of the following vehicles may park in a restricted or designated parking space or parking ground—

(a) a vehicle used as an ambulance and being used on urgent ambulance service at the time;

(b) a vehicle used by a fire brigade for inspection purpose or for attendance at fires and being used by the fire brigade in carrying out inspection or its duties of preventing or suppressing fires at the time;

(c) a vehicle used by a police or traffic officer, and being used in connection with the execution of urgent duties at the time;

(d) a vehicle used for rescue or urgent bona-fide medical purposes and being used in carrying out a rescue, or for professional medical reasons at the time, provided that a badge issued by the municipality to the effect that such vehicle is exempted, must be displayed on the windscreen thereof at the time.

24. Appeal

A person whose rights are affected by a decision of the municipality in terms of delegated authority may appeal against that decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

25. Offences and penalties

(1) A person is guilty of an offence if that person—

(a) contravenes any of the provisions of sections 4(3), 7(2), 9, 10, 11, 12, 13, 15, 16, 17, 18 and 19;

(b) fails to comply with a notice issued in terms of section 21(1);

(c) fails to comply with a request or directive of an authorised official, or hinders, interferes with or obstructs an authorised official;

(d) furnishes false information relating to an application or offence in terms of this by-law;

(2) A person convicted of an offence in terms of this by-law, is liable to—

(a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment; and

(b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,

(c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

26. Repeal of bylaws and provisions

The following by-laws and provisions are hereby repealed—

(1) The Swartland Municipality: Traffic By-law published in Provincial Gazette No. 5859 of 19 April 2002;

(2) Section 10 of the Swartland Municipality: By-law relating to Roads and Streets, published in Provincial Gazette No. 7285 of 11 July 2014.

27. Short title and commencement

This by-law shall be known as the Swartland Municipality: Parking Management By-law and shall come into operation on the date of proclamation thereof in the Provincial Gazette.