Cape Agulhas, South Africa

Integrated Waste Management By-law, 2022

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Cape Agulhas
South Africa

Integrated Waste Management By-law, 2022

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To regulate the provision of solid waste services in the area of jurisdiction of the Cape Agulhas Municipality and to provide for matters connected therewith.

The Cape Agulhas Municipality, under section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), intends to make the By-law set out in the Schedule.

Chapter 1
General provisions

1. Definitions

In this by-law a word or expression to which a meaning has been assigned in section 1 of or Schedule 3 to the Waste Act has the same meaning and, unless the context indicates otherwise—

"**authorised municipal official**" means a person designated in terms of section 31(1)(a) as an authorised municipal official;

"**bulky waste**" means waste that by virtue of its mass, shape, size or quantity is inconvenient to remove by the routine door-to-door waste removal service provided by the Municipality or a service provider;

"**community scheme**" has the meaning assigned to it in the Community Schemes Ombud Service Act, 2011 (Act 9 of 2011);

"**compost**" means stabilised, homogenous, fully decomposed material of animal or plant origin to which no plant nutrients have been added and that is free of substances or elements that could be harmful to human beings, animals, plants or the environment;

"**composting**" means a controlled biological process in which organic materials are broken down by micro-organisms into compost;

"**event organiser**" means a person who organises an event requiring an event permit;

"**event permit**" means a permit issued by the Municipality in terms of the By-law for holding an event;

"**event waste**" means waste generated from activities related to an event authorised by an event permit;

"**garden waste**" means organic waste that emanates from gardening or landscaping activities, including soil, grass cuttings, leaves and branches, but excludes waste products of animal origin or bulky waste;

"**general waste storage facility**" means a storage facility that has a capacity to store in excess of 100 cubic metres of general waste continuously;

"**health care risk waste**" has the meaning assigned to it in the Western Cape Health Care Waste Management Act, 2007 (Act 7 of 2007);

"**integrated pollutant and waste information system**" means the online waste management information system of the Western Cape Department of Environmental Affairs and Development Planning;

"**integrated waste management plan**" means an integrated waste management plan contemplated in section 7;

"**litter**" means waste, excluding hazardous waste, that has been thrown, dropped, deposited, spilled or in any other way discarded somewhere other than in a receptacle, and "littering" has a corresponding meaning;

"**municipal council**" means a municipal council contemplated in section 157 of the Constitution of the Republic of South Africa, 1996;

"**municipal indigent policy**" means a policy for indigent users approved by the Municipality;

"**municipal manager**" means the person appointed as municipal manager by the Municipality in terms of section 82 of the Municipal Structures Act;

"**Municipal Structures Act**" means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

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

"**nuisance**" means any damage, inconvenience or annoyance to a person caused by the improper generation, handling, management, storage, placement, collection, transport or disposal of waste, including littering;

"**organic waste**" means waste of a biological origin that can be broken down into its base compounds by micro-organisms, other living things or other forms of treatment within a reasonable period, and includes garden waste, animal carcasses, food waste and wood waste;

"**peace officer**" has the meaning assigned to it in the Criminal Procedure Act, 1977 (Act 51 of 1977);

"**public place**" includes—

(a) a public road; and

(b) any building or open or enclosed space, garden, park or other place used by the public or to which the public has a right of use or a right of access;

"**public road**" has the meaning assigned to it in the National Road Traffic Act, 1996 (Act 93 of 1996);

"**receptacle**" means a container approved by the Municipality and having the capacity for the temporary storage of waste;

"**responsible person**", in relation to waste, means a person who—

(a) generates the waste;

(b) is the owner of the land on which the waste has been disposed of; or

(c) was in control of the waste when it was disposed of;

"**service delivery agreement**" means an agreement between the Municipality and a person in terms of which a municipal service is provided by that person, either for that person's own account or on behalf of the Municipality;

"**service provider**" means a person who provides a municipal service in terms of a service delivery agreement with the Municipality;

"**tariff**" means the charge determined by the Municipality in terms of any applicable law for any service rendered by the Municipality or a service provider in terms of this by-law;

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

"**the Waste Act**" means the National Environmental Management: Waste Act, 2008 (Act 59 of 2008);

"**waste collection day schedule**" means a schedule contemplated in section 11(1);

"**waste disposal facility operator**" means a person designated in terms of section 31(1)(b) as a waste disposal operator;

"**waste management hierarchy**" means a method of managing waste in the following order: avoidance, reduction, reuse, recycling, recovery, treatment and disposal;

"**waste stream**" means waste that can be separated into different types of waste, including building and demolition waste, business waste, bulky waste, domestic waste, garden waste, hazardous waste, health care risk waste, industrial waste and recyclable waste.

2. Application of by-law

(1) This by-law must be read with the applicable provisions of the Waste Act.

(2) This by-law applies to all persons in the area of the Municipality.

(3) In the event of any inconsistency between a provision of this by-law and any other by-law regulating waste management, the provision of this by-law prevails.

3. Principles

(1) The principles contemplated in Chapter 1 of the National Environmental Management Act, 1998 (Act 107 of 1998), apply in all instances where this by-law applies.

(2) The waste management hierarchy must be applied in the implementation of this by-law.

(3) The application of this by-law must promote—

(a) sustainable development and a healthy environment through the management of waste within the area of the Municipality; and

(b) responsible citizenship by residents in the area of the Municipality to ensure sound waste management practices.

4. Obligations of waste generators

(1) A person must manage any waste generated by his or her activities or the activities of persons working in his or her employ or under his or her direction or control in such a manner that the waste does not cause harm to human health or damage to the environment.

(2) An authorised municipal official may issue a compliance notice to a person contemplated in subsection (1) to take measures to ensure compliance with that subsection, including issuing an instruction to that person to—

(a) inform and educate persons working in his or her employ or under his or her direction or control about the environmental risks of their work and the manner in which their tasks must be performed to manage waste in a manner that avoids causing harm to human health or damage to the environment;

(b) investigate and assess the impact that his or her waste management activities have on the environment;

(c) start, continue and complete specific measures before a date specified in the compliance notice;

(d) cease, modify or control any waste management activity that is causing, has caused or may cause harm to human health or damage to the environment;

(e) rehabilitate the effects of waste damage to the environment.

(3) The municipal manager may issue a directive requiring generators of waste to separate certain waste types from the general waste stream.

5. Storage and receptacles for general waste

(1) A person who—

(a) generates general waste to be collected by the Municipality; or

(b) separates waste streams to be collected by the Municipality for recycling,

must place the waste in a receptacle approved, designated or provided by the Municipality or the relevant service provider, as the case may be, for that purpose.

(2) A person contemplated in subsection (1) must ensure that—

(a) the receptacle is stored on the premises where the waste is generated and away from a public place between collection days;

(b) on the collection day determined in the waste collection day schedule, the receptacle is placed outside the premises in an area accessible to municipal officials or service providers;

(c) measures are in place to prevent tampering with the receptacle by animals;

(d) a receptacle provided by the Municipality or service provider is not used for any purpose other than for the storage of waste;

(e) if the receptacle is stolen, damaged or corroded, the Municipality is notified and arrangements are made for a replacement as soon as the theft, damage or corrosion comes to his or her attention.

(3) Where a receptacle is stolen as contemplated in subsection (2)(e), an authorised municipal official may request that the theft be reported to the South African Police Service before issuing a new receptacle.

6. Ownership of waste

(1) A person who generates waste is the owner of that waste until it is made available by that person for collection by the Municipality or a service provider in accordance with this by-law.

(2) Waste becomes the property of the Municipality once it is made available for collection.

(3) Subsections (1) and (2) do not apply to waste streams identified in terms of section 11(2)(d) and to waste disposed of unlawfully.

(4) A person who generates waste contemplated in subsection (3) remains the owner of the waste until the waste is disposed of lawfully.

(5) Waste on the following premises controlled by the Municipality:

(a) waste disposal facilities;

(b) waste transfer facilities; and

(c) facilities where waste is received, stored, recovered or treated, is the property of the Municipality.

(6) No person may remove from or interfere with waste on premises contemplated in subsection (5), unless authorised by the Municipality.

Chapter 2
Integrated waste management plan

7. Integrated waste management plan

The Municipality shall–

(a) establish an integrated waste management plan for the Municipality in accordance with the prescriptions of statutory provisions, and review and revise such plan regularly;

(b) annually report on the implementation of the integrated waste management plan of the Municipality; and

(c) follow the prescribed processes of community consultation in terms the provisions of statutory provisions.

8. Preparation of integrated waste management plan

The municipal manager or a delegated official may issue a directive to a person or any category of persons who generates waste in the area of the Municipality, to prepare an integrated waste management plan and to submit the plan to the Municipality for approval.

9. Contents of integrated waste management plan

An integrated waste management plan must include the following information:

(a) the quantity of waste generated;

(b) measures to prevent pollution or ecological degradation;

(c) targets for waste minimisation through waste reduction, reuse, recycling and recovery;

(d) measures or programmes to minimise the generation of waste and the final disposal of waste;

(e) measures or actions to manage waste;

(f) opportunities for the reduction of waste generation through changes to packaging, product design or production processes;

(g) mechanisms for informing the public of the impact of waste-generating products or packaging on the environment;

(h) the period required for the implementation of the plan; and

(i) methods for monitoring and reporting on the implementation of the plan.

Chapter 3
Provision of waste management services

10. Service providers

(1) The Municipality shall render a service for the collection of business and domestic waste from built upon premises, at such service fees as annually determined, and the owners or occupants of such premises shall make use of the waste collection service provided by the Municipality.

(2) The Municipality may discharge any of its functions pertaining to waste separation, collection, storage, processing, recycling, treatment and disposal by entering into a service delivery agreement with a service provider.

(3) A service delivery agreement must—

(a) accord with this by-law;

(b) stipulate service standards for the services to be rendered, including collection times and frequency;

(c) provide for the circumstances in which services rendered by the service provider may be limited; and

(d) require the service provider to be registered on the provincial integrated pollutant and waste information system.

11. Collection and transportation of general waste

(1) The Municipality must set a schedule of the days for the collection of waste and the location where the waste receptacles must be placed on those days.

(2) The Municipality may—

(a) set a waste collection day schedule for commercial and residential properties;

(b) collect waste outside of the set schedule on request by a person and at a fixed tariff;

(c) set the maximum quantities of waste that will be collected;

(d) by notice in the *Provincial Gazette*, identify waste streams that may not be collected by the Municipality or that are unsuitable for collection.

(3) The Municipality must—

(a) publish the waste collection day schedule, either in printed form or electronically; and

(b) take other reasonable measures to ensure that the public is notified of the schedule.

(4) If waste that is being transported is spilt, leaked or detached or falls from a receptacle, vehicle or other conveyance, the Municipality may recover costs from the transporter for reasonable remedial measures undertaken by the Municipality.

12. Transporting waste for gain

A person transporting general waste for gain in the area of the Municipality must—

(a) ensure that the receptacle, vehicle or other conveyance is adequate in size and designed for the type of waste transported;

(b) transport the waste in a manner that will prevent any nuisance;

(c) maintain the receptacle, vehicle or other conveyance in a clean and sanitary condition at all times; and

(d) ensure that the waste is transported to or deposited at a waste transfer facility, general waste storage facility, recycling facility or waste disposal facility authorised to accept such waste.

13. Collection of unsuitable waste

A person may not place waste identified in terms of section 11(2)(d) for collection, either on its own or mixed with any other waste for which the Municipality provides collection 'services, unless prior arrangement is made with the Municipality for special collection by the Municipality or a service provider.

14. Waste transfer facilities

A waste generator must, where applicable—

(a) use an appropriate waste transfer facility as instructed by an authorised municipal official, a waste disposal facility operator or a service provider; and

(b) adhere to the operational procedures of the waste transfer facility as determined by the Municipality.

15. Disposal of waste

(1) An authorised municipal official, waste disposal facility operator or service provider may inspect all waste loads entering a waste transfer facility, general waste storage facility, recycling facility or waste disposal facility.

(2) The inspection contemplated in subsection (1) may include—

(a) visual and physical inspection of the waste, including the use of hand-held testing equipment; and

(b) a laboratory analysis of the waste.

(3) An authorised municipal official may issue an instruction to the holder of waste that is potentially detrimental to the environment to—

(a) have independent laboratory tests conducted before the waste is disposed of to assess whether the waste is suitable for a waste disposal facility; or

(b) dispose of the waste at a specified waste disposal facility and provide proof of such disposal.

(4) If an authorised municipal official has concerns about the potential detrimental impact of any waste if not disposed of correctly, the authorised municipal official may dispose of the waste at an appropriate waste disposal facility.

(5) In the circumstances contemplated in subsections (2)(b), (3) and (4), or where waste contemplated in section 11(2)(d) is removed by the Municipality, the Municipality may recover any costs incurred from every responsible person, jointly and severally, including the costs associated with—

(a) the use of specialised equipment during the laboratory tests;

(b) laboratory analysis fees;

(c) administrative fees;

(d) transporting and disposal costs; and

(e) clean-up costs, where applicable.

(6) A person disposing of waste at a waste disposal facility owned or managed by the Municipality must adhere to the operational procedures of the facility.

Chapter 4
Recyclable waste

16. Storage, separation and collection of recyclable waste

(1) A person who undertakes any activity involving the reuse, recycling or recovery of waste, including any scrap dealer and formalised recycling group, must, before undertaking any such activity, ensure that the reuse, recycling or recovery of the waste is less detrimental to the environment than its disposal.

(2) The municipal manager may issue a directive to a person contemplated in subsection (1) to—

(a) report to the Municipality monthly on the quantity of waste generated, quantities disposed of at an authorised waste disposal facility and quantities separated for recycling and recovery; or

(b) record the details contemplated in paragraph (a) monthly on the integrated pollutant and waste information system.

(3) The municipal manager may issue a directive to a holder of waste to—

(a) separate specified recyclable waste;

(b) use different receptacles for different specified categories of recyclable waste; and

(c) make recyclable waste available for collection.

(4) The municipal manager may issue a directive requiring the executive body of a community scheme and the owners and occupants of residential properties within a community scheme to—

(a) separate specified recyclable waste;

(b) use different receptacles for different specified categories of recyclable waste; and

(c) make recyclable waste available for collection in the specified manner.

(5) If the Municipality or a service provider has provided separate receptacles for the purposes of subsection (3)(b) or (4)(b), a person may not use any other receptacle for recyclable waste.

17. Waste separation in geographical area

(1) The Municipality may, by notice in the *Provincial Gazette*, require the holder of waste within a geographical area specified in the notice to—

(a) separate specified recyclable waste;

(b) use different receptacles for different specified categories of recyclable waste; and

(c) make the recyclable waste available for collection in the specified manner.

(2) Before publishing a notice contemplated in subsection (1), the Municipality must publish a notice in the *Provincial Gazette*—

(a) setting out the recyclable waste that must be separated within the geographical area concerned in terms of the proposed notice;

(b) setting out the manner in which the specified recyclable waste must be placed for collection;

(c) setting out when the recyclable waste is to be collected; and

(d) inviting written comments on the matters contemplated in paragraphs (a) and (b).

Chapter 5
Prohibitions

18. Prohibition of unauthorised disposal of waste

(1) No person may—

(a) dispose of waste in or on any land or water body or at any facility unless the disposal of that waste is authorised by law; or

(b) knowingly or negligently cause or permit waste to be disposed of in a manner that is likely to cause harm to human health or damage to the environment.

(2) If waste has been disposed of in contravention of this by-law, the municipal manager may issue a directive to the responsible person to remove the waste to an authorised waste disposal facility within a specified period.

(3) If waste has been disposed of in contravention of this by-law and—

(a) the responsible person fails to comply, or inadequately complies, with a directive contemplated in subsection (2);

(b) there is uncertainty regarding the identity or whereabouts of the responsible person; or

(c) there is an immediate risk of danger to the public or detriment to the environment,

the Municipality may take any measure it considers necessary to contain and minimise the effects of the disposal of the waste, undertake clean-up procedures, and remedy the effects of the disposal of the waste.

(4) The Municipality may recover any costs incurred in terms of subsection (3) from every responsible person, jointly and severally.

19. Prohibition of burning of waste

No person may burn, incinerate or apply any other thermal treatment technology to waste except in a thermal treatment facility authorised by the Municipality or the relevant competent authority.

20. Prohibition of littering

(1) No person may—

(a) litter;

(b) dispose of waste onto any public place;

(c) disturb anything in, or remove anything from, any receptacle that has been placed for the purposes of collecting waste in such a manner as to cause the contents of the receptacle to spill or fall onto the ground; or

(d) allow a person under his or her employ, direction or control to do any of the acts contemplated in paragraph (a), (b) or (c).

(2) If litter has been disposed of or discarded in contravention of this by-law on privately owned land to which the public has access, the owner of that land must remove the litter from the property within a reasonable period.

(3) When the Municipality regard it as necessary to remove waste or litter from any premises, the owner, occupant or person having control over the premises, shall be liable for the costs incurred by the Municipality for the removal of the waste and litter on the premises concerned.

(4) In the case of litter which are hazardous waste, the Municipality shall immediately remove such waste, and issue the required notice to the person responsible for the costs of removal and rehabilitation of the environment.

21. Prohibition of nuisance

(1) A person handling waste, whether during storage, collection, transportation, recycling, treatment or disposal, must—

(a) take reasonable measures to prevent it from being a nuisance to anybody or the environment; and

(b) take measures at his or her own cost to remedy any nuisance caused.

(2) The municipal manager may issue a directive to a responsible person to take measures to ensure compliance with subsection (1).

(3) If a directive is issued as contemplated in subsection (2) and—

(a) the responsible person fails to comply, or inadequately complies, with the directive;

(b) there is uncertainty regarding the identity or whereabouts of the responsible person; or

(c) there is an immediate risk of danger to the public or detriment to the environment,

the Municipality may take any measure it considers necessary to prevent the nuisance, contain and minimise the effects of the nuisance and remedy the effects of the nuisance.

(4) The Municipality may recover any costs incurred in terms of subsection (3) from every responsible person, jointly and severally.

Chapter 6
Handling different types of waste

22. Organic waste

(1) The occupant of premises on which—

(a) organic waste is generated, may compost the waste on the premises, provided that the composting does not cause a nuisance or harm to human health or damage to the environment;

(b) organic waste is generated and not composted, must ensure that the waste is collected and treated or disposed of within a reasonable period after its generation.

(2) The municipal manager may issue a directive to—

(c) a transporter of garden waste or a person providing garden maintenance services to transport any garden waste to a facility designated by the Municipality for disposal;

[Please note: numbering as in original.]

(d) an organic waste generator to develop an integrated waste management plan indicating measures to minimise and recover such waste; and

(e) an organic waste generator to transport the waste to designated facilities for treatment or disposal.

(3) The Municipality or a service provider may, on the written request of the occupant of premises on which organic waste is generated, deliver an appropriate receptacle for the purpose of storing organic waste, in addition to any receptacle provided in terms of section 5 (1) for general waste, on payment of a tariff.

23. Bulky waste

(1) A person generating bulky waste may not place the bulky waste with other waste that is to be collected by the Municipality in accordance with the waste collection day schedule, and must ensure that the bulky waste is recycled or, when it cannot be recycled, disposed of at a facility designated by the Municipality to receive bulky waste.

(2) The Municipality or a service provider may, on the request of the occupant of premises at which bulky waste is generated, remove bulky waste from those premises on payment of a tariff.

(3) The municipal manager may issue a directive to a service provider that collects bulky waste to—

(a) report monthly to the Municipality on the quantities of bulky waste disposed of and the quantities separated for recycling; or

(b) record the details contemplated in paragraph (a) monthly on the integrated pollutant and waste information system.

24. Building and demolition waste

(1) A person generating building and demolition waste may not mix building and demolition waste with waste to be collected by the Municipality in accordance with the waste collection day schedule, and must ensure that the building and demolition waste is recycled or, when it cannot be recycled, is disposed of at a facility designated by the Municipality to receive building and demolition waste.

(2) The municipal manager may issue a directive to a person who generates building or demolition waste to separate the waste for treatment, recycling or reuse and to—

(a) report monthly to the Municipality on the quantities of building or demolition waste generated, the quantities disposed of at an authorised waste disposal facility and the quantities separated for recycling and reuse; or

(b) record the details contemplated in paragraph (a) monthly on the integrated pollutant and waste information system.

(3) A person who applies for approval from the Municipality to undertake demolition work in terms of the National Building Regulations, made under Government Notice R2378 of 1990 in *Government Gazette* 12780 dated 12 October 1990, must submit a demolition waste plan with the application.

(4) The demolition waste plan must include a deconstruction plan describing the process proposed for the demolition and must set out detailed plans for maximising the recovery of reusable and recyclable waste.

(5) The Municipality may, by notice in the *Provincial Gazette*, require a person operating or wishing to operate a building and demolition waste removal service in the area of the Municipality to—

(a) register with the Municipality before undertaking such work; and

(b) provide such information as is specified in the notice or as the Municipality may reasonably require.

(6) An application for registration to operate a building and demolition waste removal service must be in a form determined by the Municipality.

(7) The Municipality must, within 30 days of receipt of an application for registration contemplated in subsection (6), consider the application and either—

(a) register the applicant and issue a registration certificate to the applicant stating—

(i) the name of the facility registered to operate as a building and demolition waste removal service;

(ii) the waste information registration number;

(iii) the type of waste handled by the facility;

(iv) the location of the facility; and

(v) the date of registration; or

(b) by written notice send the application for registration back to the applicant for correction.

(8) An application for registration that has been sent back for correction must be amended and resubmitted to the Municipality within 30 days after the date on which the Municipality issued the written notice to the applicant for the correction of the application.

(9) An application for registration that has been amended and resubmitted as contemplated in subsection (8) must be dealt with as contemplated in subsection (7).

(10) The Municipality may itself provide a building and demolition waste removal service on payment of a tariff.

(11) A person who wishes to place an appropriate receptacle for the storage and collection or disposal of building and demolition waste on a public road must apply to the Municipality for written consent.

(12) A receptacle contemplated in subsection (11) must—

(a) be clearly marked with the name, address and telephone number of the person responsible for the receptacle;

(b) be fitted with reflecting chevrons or reflectors that clearly outline the front, sides and the back of the receptacle; and

(c) be covered at all times, except when receiving or being emptied of waste, so that no displacement of its contents can occur.

25. Hazardous waste

(1) The Municipality may, by notice in the *Provincial Gazette*, require a person who generates, treats, transports or disposes of hazardous waste, or who wishes to generate, treat, transport or dispose of hazardous waste, in the area of the Municipality to—

(a) register with the Municipality before undertaking such work; and

(b) provide such information as is specified in the notice or as the Municipality may reasonably require.

(2) An application for registration to generate, treat, transport or dispose of hazardous waste must be in a form determined by the Municipality.

(3) The Municipality must, within 30 days of receipt of an application for registration as contemplated in subsection (2), consider the application and either—

(a) register the applicant and issue a registration certificate to the applicant stating—

(i) the name of the facility registered to generate, treat, transport or dispose of hazardous waste;

(ii) the waste information registration number;

(iii) the type of waste handled by the facility;

(iv) the location of the facility; and

(v) the date of registration; or

(b) by written notice send the application for registration back to the applicant for correction.

(4) An application for registration that has been sent back for correction must be amended and resubmitted to the Municipality within 30 days after the date on which the Municipality issued the written notice to the applicant for the correction of the application.

(5) An application for registration that has been amended and resubmitted as contemplated in subsection (4) must be dealt with as contemplated in subsection (3).

(6) A person who generates hazardous waste or the owner of premises where hazardous waste is generated must contract with a service provider registered in terms of this section to treat, transport or dispose of such waste.

26. Waste tyres

(1) The Municipality may, by notice in the *Provincial Gazette*, require a person operating. or wishing to operate as a tyre producer, tyre dealer, waste tyre collector, tyre stockpile owner or tyre recycling processor to—

(a) register with the Municipality before undertaking such work; and

(b) provide such information as is specified in the notice or as the Municipality may reasonably require.

(2) An application for registration to operate as a tyre producer, tyre dealer, waste tyre collector, tyre stockpile owner or tyre recycling processor must be in a form determined by the Municipality.

(3) The Municipality must, within 30 days of receipt of an application for registration as contemplated in subsection (2), consider the application and either—

(a) register the applicant and issue a registration certificate to the applicant stating—

(i) the name of the facility registered to operate as a tyre producer, tyre dealer, waste tyre collector, tyre stockpile owner or tyre recycling processor;

(ii) the waste information registration number;

(iii) the type of waste handled by the facility;

(iv) the location of the facility; and

(v) the date of registration; or

(b) by written notice send the application for registration back to the applicant for correction.

(4) An application for registration that has been sent back for correction must be amended and resubmitted to the Municipality within 30 days after the date on which the Municipality issued the written notice to the applicant for the correction of the application.

(5) An application for registration that has been amended and resubmitted as contemplated in subsection (4) must be dealt with as contemplated in subsection (3).

(6) The Municipality may, by notice in the *Provincial Gazette*, require the public to dispose of waste tyres at facilities designated in the notice.

27. Event waste

(1) An event organiser must submit an event waste management plan together with his or her application to the Municipality for an event permit.

(2) The event waste management plan must set out in detail—

(a) how waste will be minimised and recovered for recycling; and

(b) the person responsible and measures in place for the clean-up, collection, recycling and disposal of the event waste.

(3) The event organiser must ensure that the event waste is disposed of at an authorised waste disposal facility and provide the Municipality with proof of the disposal.

(4) If any event waste has not been cleaned up and collected after an event has been held, the municipal manager may issue a directive to the event organiser or responsible person to remove the waste to an authorised waste disposal facility.

(5) If a directive is issued as contemplated in subsection (4) and—

(a) an event organiser or responsible person fails to comply or inadequately complies with the directive;

(b) there is uncertainty regarding the identity or whereabouts of the event organiser or responsible person; or

(c) there is an immediate risk of danger to the public or detriment to the environment,

the Municipality may take any measure it considers necessary to clean up, collect and dispose of the event waste.

(6) The Municipality may recover the costs incurred by it in terms of subsection (5) from the event organiser and any responsible person, jointly and severally.

28. Abandoned articles

The Municipality may remove and dispose of any article it reasonably considers abandoned, taking into account the following factors:

(a) the location of the article;

(b) the length of time that the article has been at that location; and

(c) the nature and condition of the article.

Chapter 7
Administrative matters, compliance and enforcement

29. Liability to pay tariffs

(1) The owner of premises for which the Municipality is providing waste management services contemplated in this by-law is liable for the payment of tariffs.

(2) The Municipality may exempt or grant a rebate to any person or category of persons that are regarded to be indigent in terms of the municipal indigent policy from paying tariffs for waste management services.

30. Exemptions

(1) A person may apply in writing to the Municipality for exemption from any provision of this by-law.

(2) An application contemplated in subsection (1) must be in a form determined by the Municipality and must be accompanied by a motivation for the exemption.

(3) The Municipality may—

(a) grant an exemption in writing, with or without conditions subject to which the exemption is granted;

(b) amend or cancel an exemption or a condition in an exemption; or

(c) refuse to grant an exemption.

(4) In order to consider an application contemplated in subsection (1), the Municipality may obtain comments from members of the public who would be affected by the granting of the exemption.

(5) If an exemption is granted subject to conditions, the exemption does not take effect until the applicant has submitted a written undertaking to the Municipality that he or she will comply with all the conditions.

(6) If the applicant fails to comply with a condition of the exemption, the exemption is suspended with immediate effect.

31. Designation of certain officials

(1) The municipal manager may—

(a) designate as an authorised municipal official any staff member of the Municipality;

(b) designate as a waste disposal facility operator any staff member of—

(i) the Municipality;

(ii) any other organ of state; or

(iii) a service provider and

(c) at any time withdraw a designation made in terms of paragraph (a) or (b).

(2) A designation contemplated in subsection (1)(b)(ii) may be made only by agreement between the municipal manager and the relevant organ of state.

32. Functions of authorised municipal officials and waste disposal facility operators

(1) An authorised municipal official—

(a) must administer, implement and enforce this by-law; and

(b) may perform any function assigned to an authorised municipal official by this by-law, including conducting an inspection, investigating any act or omission that may constitute an offence in terms of this by-law, and monitoring and enforcing compliance with this by-law.

(2) A waste disposal facility operator must administer and implement this by-law at a municipal waste transfer facility, general waste storage facility, recycling facility or waste disposal facility, as the case may be.

33. Premises inaccessible for waste collection

If employees of the Municipality or a service provider contemplated in section 10 are—

(a) impeded from handling or collecting waste at any premises due to the layout of the premises; or

(b) endangered by an impediment on the premises when handling or collecting waste at any premises,

the municipal manager may issue a directive requiring the owner of the premises to undertake such alterations or additions to the premises as are necessary to remove the impediment at the owner's cost.

34. Duty to produce documents

A person to whom a certificate, permit, authorisation or any other document contemplated in this by-law has been issued must produce it at the request of a peace officer or an authorised municipal official.

35. Directives

(1) The municipal manager may issue a directive to any person as contemplated in this by-law to take specific measures pertaining to waste within a specified period to ensure that the impact of waste on human health or damage to the environment is mitigated and to give effect to the waste management hierarchy.

(2) Before issuing a directive contemplated in this by-law, the municipal manager must give notice in writing to the person to whom the directive is intended to be issued of the intention to issue the directive and give that person a reasonable opportunity to make representations in writing.

(3) If urgent action is necessary for the protection of the environment, the municipal manager—

(a) may issue the directive without giving written notice to the person beforehand; and

(b) must give the person to whom the directive was issued an opportunity to make written representations as soon as is reasonable thereafter.

36. Compliance notices

(1) An authorised municipal official may issue a written compliance notice to a person if there are reasonable grounds for believing that the person has not complied with—

(a) a provision of this by-law; or

(b) a term or condition of any permit, authorisation, exemption or other document issued in terms of this by-law.

(2) Before issuing a compliance notice, an authorised municipal official must give notice in writing to the person to whom the compliance notice is intended to be issued of the intention to issue the compliance notice and provide that person with a reasonable opportunity to make written representations.

(3) If urgent action is necessary for the protection of the environment, an authorised municipal official —

(a) may issue a compliance notice without giving written notice to the person beforehand; and

(b) must give the person on whom the compliance notice was issued an opportunity to make written representations as soon as is reasonable thereafter.

(4) A compliance notice must set out—

(a) details of the conduct constituting non-compliance;

(b) any steps the person must take and the period within which the steps must be taken;

(c) any actions the person may not perform, and the period during which the person may not do so;

(d) the steps the Municipality is entitled to take in terms of subsection (6) if the notice is not complied with; and

(e) the procedure to be followed to lodge an appeal against the compliance notice.

(5) An authorised municipal official may, on good cause shown, vary a compliance notice and extend the period within which it must be complied with.

(6) If a person to whom a compliance notice has been issued fails to comply with it, the Municipality may—

(a) take whatever steps it considers necessary, where applicable, to—

(i) clean up or remove the waste;

(ii) rehabilitate the premises, place or affected area at which the waste has been dumped or disposed of or is stored; and

(iii) ensure that waste and any contaminated material that cannot be removed, cleaned or rehabilitated is treated or disposed of lawfully; and

(b) recover the costs of taking any steps contemplated in paragraph (a) from every responsible person, jointly and severally.

37. Appeals

(1) A person whose rights are affected by a decision taken by the Municipality in terms of this by-law may, unless the decision was taken by the municipal council, appeal against that decision in terms of section 62 of the Municipal Systems Act.

(2) An appeal under this section suspends the operation of the decision concerned pending the finalisation of the appeal, subject to subsections (3) and (4).

(3) A person who receives a directive or compliance notice issued in terms of this by-law must comply with that directive or compliance notice within the period stated in the directive or compliance notice, unless the appeal authority has agreed to suspend the operation of the directive or compliance notice as contemplated in subsection (4)(b).

(4) The appeal authority may, on application and on good cause shown, direct that, pending the finalisation of the appeal—

(a) the operation of the decision forming the subject of the appeal, or any provision or condition attached thereto, is not suspended, either wholly or in part; or

(b) the operation of the directive or compliance notice contemplated in subsection (3), or any part of that directive or compliance notice, is suspended.

38. Limitation of liability

Neither the Municipality nor any other person is liable for any damage or loss caused by—

(a) the exercise of any power or the performance of any duty under this by-law; or

(b) the failure to exercise any power or perform any duty under this by-law,

unless the exercise or performance of, or the failure to exercise or perform, the power or duty is unlawful and—

(i) negligent; or

(ii) in bad faith.

39. Offences

A person commits an offence if that person—

(a) hinders or interferes with a service provider, a waste disposal facility operator or an authorised municipal official in the exercise of their powers or the performance of their duties in terms of this by-law;

(b) contravenes or fails to comply with section 5(1), 24(3), 24(12), 27(1) or 34;

(c) contravenes or fails to comply with section 4(1), 6(6), 13, 14, 15(6), 16(5), 18(1), 19, 20(1), 22(1)(b), 23(1), 25(6) or 27(3);

(d) contravenes or fails to comply with a compliance notice issued in terms of section 4(2) or 36(1);

(e) contravenes or fails to comply with a directive issued in terms of section 4(3), 8, 16(2), 16(3), 16(4), 18(2), 21(2), 22(2), 23(3), 24(2), 27(4) or 33;

(f) falsely pretends to be an authorised municipal official or waste disposal facility operator;

(g) furnishes false or misleading information when complying with a provision of this by-law;

(h) unlawfully, and intentionally or negligently, performs any act or omits to do anything in relation to waste that detrimentally affects or is likely to detrimentally affect the environment;

(i) contravenes or fails to comply with a notice contemplated in section 17(1), 24(5), 25(1), 26(1) or 26(6);

(j) contravenes or fails to comply with an instruction issued in terms of section 4(2) or 15(3);

(k) contravenes or fails to comply with an integrated waste management plan; or

(l) contravenes or fails to comply with a condition subject to which exemption from a provision of this by-law was granted in terms of section 30.

40. Penalties

(1) A person convicted of an offence in terms of section 39(b) is liable to a fine or imprisonment for a period not exceeding one month, and in the case of a second or subsequent conviction, to a fine or imprisonment for a period not exceeding two months, or in both instances, to both such fines and such imprisonment.

(2) A person convicted of an offence in terms of section 39(a), (c), (d), (e), (h), (i), (j), (k) or (l) is liable to a fine or imprisonment for a period not exceeding one year, and in the case of a second or subsequent conviction, to a fine or imprisonment for a period not exceeding two years, or in both instances, to both such fines and such imprisonment.

(3) A person convicted of an offence in terms of section 39(f) or (g) is liable to a fine or imprisonment for a period not exceeding two years, and in the case of a second or subsequent conviction, to a fine or imprisonment for a period not exceeding four years, or in both instances, to both such fines and such imprisonment.

(4) A fine contemplated in subsection (1), (2) or (3) must be determined with due consideration of—

(a) the severity of the offence in terms of its impact or potential impact on health, well-being, safety and the environment; and

(b) the monetary or other benefits that accrued to the convicted person through the commission of the offence.

41. Repeal of by-laws

The Refuse Removal By-Law of 2005 is repealed.

42. Interpretation

In the event of a conflict between English and the Afrikaans versions of this By-law, the English version shall be decisive.

43. Short title

This by-law is called the Integrated Waste Management By-law of the Cape Agulhas Municipality, 2021.