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**From:** "Tristan De Graaf" <offthegridtristan@gmail.com>  
**To:** "Anneleen Vorster" <anneleenv@swellendam.gov.za>  
**Sent:** Tuesday, June 11, 2024 4:39:17 PM  
**Subject:** Re: WRITING OFF OF DEBT

Thank you kindly.  
I'd like to refer the matter to council as an appeal.

The amount we are talking about is R10876.21 in outstanding refuse fees, the service of which has never been used to date, that I am not happy to pay.

I'm happy to resume and make payments from today's current date moving forward, but cannot manage to pay 5 years of so called arrears to a service that was illegally and without my consent bolted/added to my monthly rates account in 2020, and additionally never used.

I trust we can come to an arrangement.

Much appreciated.

Thank you

tristan

On Tue, 11 Jun 2024, 16:32 Anneleen Vorster, <anneleenv@swellendam.gov.za> wrote:

Mr de Graaff

With reference to your visit to my office on 11 June 2024 I wish to confirm that your request to write off the refuse removal services for erf 45 Suurbraak, I wish to inform you that the refuse removal levy cannot be exempted/the arrears written off.

Your motivation that you did not use the refuse removal service or apply for the service is noted but in terms of the By Law on Refuse Removal the monies are still payable as Municipalities are the only entity authorised to deal with waste removal in our municipal area. The amount of refuse removed /not removed does not impact on the individual levy charged.

As indicated you have the right to appeal this decision to the Executive Mayor. It is noted that you already spoke to him and was not satisfied with the outcome provided. In terms of the Local Government: Municipal Systems Act, 56 of 2000 as amended, you have the right to appeal the decision of the Executive Mayor to Council.

Regards



**Anneleen Vorster**

Municipal Manager

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**Swellendam Municipality**

P.O Box 20, Swellendam, 6740, Western  
Cape,

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PROVINCE OF THE WESTERN CAPE

# Provincial Gazette Extraordinary

7527

Friday, 13 November 2015

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PROVINSIE WES-KAAP

# Buitengewone Provinsiale Koerant

7527

Vrydag, 13 November 2015

As 'n Nuusblad by die Poskantoor Geregistreer

## INHOUD

(\*Afskrifte is verkrygbaar by Kamer M21, Provinsiale Wetgewer-gebou, Waalstraat 7, Kaapstad 8001.)

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**SWELLENDAM MUNICIPALITY  
REFUSE REMOVAL, REFUSE DUMPS AND SOLID WASTE DISPOSAL BY-LAWS**

To regulate Refuse removal, refuse dumps and solid waste disposal activities; and to provide for matters connected therewith.

**PREAMBLE**

WHEREAS section 156(2) and (5) of the Constitution provides that a municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer, and to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its functions;

AND WHEREAS Part B of Schedule 5 to the Constitution lists Refuse removal, refuse dumps and solid waste disposal as a local government matter to the extent set out in section 155(6) (a) and (7);

AND WHEREAS the Swellendam Municipality seeks to regulate Refuse removal, refuse dumps and solid waste disposal;

BE IT ENACTED by the Council of the Swellendam Municipality, as follows:—

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## 1. Definitions

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

**"attendant"**, means an employee of the Municipality or agent of the Municipality duly authorised to be in charge of the disposal site;

**"disposal site"** means a site which is licensed in terms of the provisions of the National Environmental Management: Waste Act, 2008 (Act 59 of 2008) used for the accumulation of waste with the purpose of disposing or treatment of such waste and includes a waste transfer and recycling station;

**"municipality"** means the Municipality of Swellendam established in terms of Section 12 of the Municipal Structures Act, 1998 (Act 117 of 1998) and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this By-law by virtue of a power vested in the Municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

**"owner"** also means lessee, occupier, resident or any person who obtains a benefit from the premises or is entitled thereto and also includes any insolvent estate, executor, administrator, trustee, liquidator or judicial manager;

**"person"** has the meaning attached thereto by the Interpretation Act, 1957 (Act 33 of 1957), and includes an organ of state;

**"premises"** means residential-, business-, and industrial premises and includes any land, whether vacant, occupied or with buildings thereon, forming part of a piece of land laid out as a township within the jurisdictional area of the Municipality, irrespective of being proclaimed as a township;

**"removal day"** means the day fixed by the Municipality for removal of waste from premises and depending on the case may be multiple removals per week;

**"waste"** includes—

(a) **"business waste"** which means any matter or substance arising out of the use of business premises but does not include, hazardous waste, material, domestic waste or garden waste;

(b) **"domestic waste"** which means any fruit or vegetable peels, fruit or vegetable waste, general domestic waste as well as garden waste which is of such size that it may be deposited in a refuse bin;

(c) **"garden waste"** which means waste originating from a gardening activity such as grass cutting, leaves, plants flowers or similar waste of vegetal origin and of such size that it can be placed in a refuse bin;

(d) **"hazardous waste"** which means any waste, matter or substance which may be hazardous or harmful to the environment and residents or which may pollute the environment including asbestos, motor oils or lubricants, or any other waste, matter or substance which constitutes hazardous waste as envisaged in the Hazardous Substances Act, 1973 (Act 15 of 1973);

(e) **"offensive waste"** means any waste, matter or substance which may be harmful to the environment and residents and includes, but is not limited to—

(i) animal products, animal carcasses and meat as defined in the Meat Safety Act, 2000 (Act 40 of 2000) and in the Red Meat Regulations promulgated under GN 1072 of 17 September 2004;

(ii) fruit or vegetables or any by-product obtained from such fruit or vegetables;

(iii) perishable foodstuffs; and

(iv) health care waste as defined in the Western Cape Health Care Waste Management Act, 2007, (Act 7 of 2007);

(f) **"materials"** which means any stone, rock, sand, building materials or building rubble or any other type of composite or artificial materials such as plastic pipes and similar materials as well as materials which are utilised in the erection of buildings or structures or any other materials which constitute materials;

**"waste bin"** means a mobile container with a capacity determined by the Municipality, or alternatively plastic bags, suitable for the purpose of storage of waste, which the Municipality may make available to each premises;

**"waste management activities"** means the generation, reduction and minimisation of waste, waste handling, which includes the separation, storage, collection, and transfer of waste, processing of waste and waste treatment, which includes the recovery of waste, recovery being the recycling, reclamation and re-use of waste, and disposal of waste.

**"waste transfer and recycling station"** means a waste handling facility that receives and temporarily stores waste or any recyclable waste, or a combination thereof.

## **2. Conflict with other legislation**

- (1) In the event of any conflict between any provision of this By-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail subject to section 151(3) and 156(4) of the Constitution.
- (2) In the event of an inconsistency between the different texts The English text shall prevail.

## **3. Application of this By-law**

- (1) The provisions of this bylaw do not derogate from the provisions of any environmental legislation or 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 bylaw binds an organ of state.

## **4. Duties and powers of municipality**

- (1) The Municipality as the primary service provider in the municipal area has a duty to the local community to progressively ensure efficient, affordable, economical and sustainable access to waste management services in its area or a part of its area.
- (2) This duty is subject to—
- (a) the duty of members of the local community as users of the Municipality's waste management services or any other person making use of the Municipality's waste management services to pay for the provision of the services, the prescribed charges, which must be priced in accordance with any nationally prescribed norms and standards for rates and tariffs; and
- (b) the right of the Municipality to differentiate between geographical areas when providing types of waste management services, without compromising on service equity in line with the Constitution or the integrity of the natural environment.
- (3) The Municipality must as far as is reasonably possible and subject to the provisions of this By-law provide a service, at a cost to users of the services prescribed by the Municipality—
- (a) for the collection of waste on a regular basis, except waste in its area, which is so situated that the cost of collecting it would be unreasonably high; and
- (b) access to facilities for the recovery and disposal of waste.
- (4) The Municipality must notify all users of its waste management services of any decisions taken in terms of this By-law.

## **5. Compulsory use of service**

- (1) No one except the Municipality or a person authorised by the Municipality may remove any refuse from any premises or dispose thereof.
- (2) Each owner of premises must make use of the service provided by the Municipality for the removal or disposal of refuse, in respect of refuse originating from such premises.
- (3) The tariff as fixed by the Municipality annually as part of the budget process shall be payable to the Municipality by the owner, irrespective whether the service is being used, or not.
- (4) The provisions of this section do not apply to an owner of residential premises who occasionally wishes to dispose of garden refuse or building rubble generated on such premises.
- (5) A person who contravenes the provisions of subsections (1) and (2) commits an offence.

## **6. Establishment and control of disposal site**

The Municipality may establish and control a disposal site, or may appoint agents or may contract some other person or body to control, manage and operate a disposal site on behalf of the Municipality in accordance with the provisions of this By-law and the provisions of any other legislation that may be applicable.

## **7. Access to disposal site**

- (1) Only a person wishing to dump waste who has paid the prescribed fees or who is in possession of a written permission issued by the Municipality which permits him or her to dump such waste at a disposal site and a person having obtained the written consent of the Municipality to recycle any materials or objects on such a site, is entitled to enter the disposal site or to be on the site.
- (2) Notwithstanding anything to the contrary contained in this By-law, any employee of the Municipality or anybody acting on behalf of the Municipality and duly authorised thereto, may enter a disposal site at any time in exercising his or her duties.
- (3) A person making use of the disposal site or entering the disposal site, do so at his or her own risk and the Municipality accepts no responsibility for the safety of such person or any damages or losses sustained by such person.

(4) A person who enters a disposal site or who is found on such a site in contravention of the provisions of this section commits an offence.

#### **8. Off-loading of waste**

(1) A person who wishes to dump waste at a disposal site, must off-load such waste at such a place within the borders of the disposal site and in such a manner as the attendant may direct.

(2) The Municipality may—

(a) set aside any part of a disposal site where only waste of a particular kind may be dumped or deposited.

(b) limit the type or size of vehicle from which waste may be dumped or deposited at any disposal site.

(c) limit the quantity of waste in general or the quantity of a particular type of waste which may be dumped or deposited at any disposal site.

(d) the days when and hours during which dumping may take place at any disposal site.

(3) Any requirement imposed in terms of this By-law must be indicated to the public by means of an appropriate notice erected at the entrance of the disposal site concerned and any instruction issued by an official of the Municipality or a person acting on behalf of the Municipality in charge of access control at the dumping site, shall be strictly complied with.

(4) Notwithstanding the provisions of subsection (2) the Municipality reserves the right not to permit the dumping of hazardous or offensive waste at a disposal site.

(5) Notwithstanding the provisions of sub sections (1) to (4), the Municipality may, in consultation with the relevant liaison forum, develop policy and guidelines to give effect to the provisions of this section.

(6) A person who contravenes any of the provisions of this section or fails to comply with any directive in terms of the said policy of guidelines, commits an offence.

#### **9. Ownership of waste**

(1) Waste dumped at a disposal site, becomes the property of the Municipality and no person who is not duly authorised by the Municipality to do so may remove or interfere with such waste.

(2) A person who contravenes subsection (1) commits an offence.

#### **10. Categories of waste**

The Municipality may, for the purposes of this By-law, categorise waste into different categories.

#### **11. Separation of waste for recycling purposes**

The Municipality may require that waste be separated into different kinds and nature of waste for the purposes of recycling or for any other purpose in terms of this By-law.

#### **12. Provision of waste bins**

(1) The Municipality may—

(a) provide standardised waste bins, or alternatively plastic bags, for the disposal of waste generated on premises; and

(b) authorise the use of bins and lids constructed of rubber or other material where the design and construction has been approved by the Municipality.

(2) Waste bins other than plastic bags provided in terms of subsection (1) remain the property of the Municipality.

(3) The Municipality may prescribe special waste bins for the reception and storage of such types of waste as the Municipality may specify and may by written notice on the owner of premises require the owner to provide at his or her own expense such number of special waste bins as are specified in the notice.

(4) Where any waste bin provided on premises is—

(a) of a size likely to hinder the efficient removal of waste there from by employees of the Municipality;

(b) is insufficient for the reception of all waste which is to be removed from such premises by the Municipality;

(c) dilapidated; or

(d) likely to cause a nuisance, the Municipality may by notice, require the owner of the premises to provide, at his or her own expense, an additional number of waste bins or such other means of storing receptacles as may be necessary to comply with the provisions of this By-law.

(5) A waste bin shall be replaced as and when it is necessary, provided that where such waste bin has to be replaced as a result of theft or damage caused through the negligence of the owner, such owner shall be held liable for the cost of replacing it.

(6) No person may dispose of any waste by placing it anywhere else than in a waste bin provided or approved by the Municipality.

(7) In respect of a group development the Municipality may provide less waste bins per household subject to the following conditions—

(a) a central refuse collection point must be provided by the managing body;

(b) the managing body must apply in writing for the reduction of waste bins issued to the development;

(c) the reduced number of bins must be approved by the Municipality; and

(d) the managing body shall be held liable for payment of the account for waste removal, which account will be equal to the cost as if the prescribed amount of individual waste bins do exist.

(8) A person who contravenes a provision of subsection (6) or who fails to comply with a notice issued in terms of subsections (3) and (4) commits an offence.

### 13. Location of waste bins

(1) The owner of premises must provide adequate space on or at the premises where a waste bin or other receptacle for the purpose of depositing waste or a specific category of waste are kept, and the space must—

(a) comply with requirements imposed by the Municipality by notice to the owner;

(b) where applicable, be constructed in accordance with the requirements of any applicable building regulations and be so located that the waste bin or receptacle is not unsightly or visible from a street or public place or;

(c) where applicable, be so located as to permit convenient access to and egress from such place for a waste collection vehicle; and (d) be in a location convenient for the use by users or occupants of the premises so as to discourage littering or the unhealthy accumulation of waste.

(2) In the case of multi-storey buildings, the Municipality may approve the installation of refuse chutes of an approved design and specification, and subject to the submission and approval of the plans for such installation.

(3) The owner of premises must place or cause the waste bins to be placed in the space provided and must at all times keep it there.

(4) A person who contravenes a provision of subsection (1) or (3) commits an offence.

### 14. Maintenance of waste bins

(1) The occupier of premises must ensure that a waste bin other than plastic bags is—

(a) at all times maintained in good order and repair;

(b) emptied regularly and cleansed when full, so that its contents do not become a nuisance or provide grounds for complaint;

(c) protected against unauthorised disturbance or interference at all times when waste is not being deposited into it or discharged from it.

(2) No person may remove a waste bin from any premises to which it has been allocated or destroy or damage it, or permit it to be removed, destroyed or damaged.

(3) A person who contravenes any provision of this section commits an offence.

### 15. Collection of waste

(1) The Municipality may indicate a position within or outside the premises where waste bins must be placed for the collection and removal thereof and may require certain kinds of waste, such as garden waste, to be bundled or packaged and be placed in that position at the times and for a period as the Municipality may require.

(2) The Municipality shall on removal days collect only waste placed in waste bins or other containers approved by it or which is bundled or packaged in a manner approved by the Municipality.

(3) Where a particular kind of waste as stipulated by the Municipality is not collected by the Municipality from premises, the owner of the waste must arrange for the collection and transport of the waste as often as may be necessary to prevent undue accumulation or any nuisance arising therefrom, to a waste disposal or processing site under the control of the Municipality, or to such other place as may be approved by the Municipality.

(4) The Municipality may decide on separate times on which particular categories of waste are to be collected.

(5) The Municipality may—

(a) cause collections to be made at regular periods daily or otherwise, and may alter dates of collection;

(b) increase the number of collections as it may deem necessary or desirable; or

(c) make additional collections should it be desirable.

(6) In the event of any additional collection being required by the owner of premises, the additional collection will be subject to the approval of the Municipality and each additional collection must be paid for by the owner of premises from which the waste is collected at the tariff annually prescribed by the Municipality.

(7) The Municipality may, upon application by the owner of premises, approve alternative arrangements for removal of waste from such premises.

(8) A person who contravenes the provisions of subsection (1) or (3) commits an offence.

#### 16. Access to premises

Except where otherwise approved by the Municipality, the owner of premises must ensure that access from the nearest public road to the waste storage area on a premises is independent and unimpeded, and an owner who fails to do so, commits an offence.

#### 17. Right of entry

(1) Any duly authorised employee of the Municipality is entitled to enter premises in respect of which the Municipality's waste management services are rendered at any reasonable time on any day, or at any other time at which the service is ordinarily rendered for any of the following purposes:

(a) for collecting and supervising the collection of waste;

(b) for replacing waste bins; or

(c) for inspecting the means of access to the premises, or the space where waste bins are kept so as to ensure that they are accessible and convenient for the collectors.

(2) The owner of premises may not refuse access to the premises by a duly authorised employee of the Municipality and such employee must produce his or her identity on demand.

(3) An owner of premises commits an offence if he or she—

(a) denies access to the premises to an authorised employee of the Municipality in the performance of his or her duties; or

(b) obstructs or impedes such employee of the Municipality in the performance of his or her duties.

#### 18. Dumping and littering

(1) No person may—

(a) except by permission of the owner or of the person or authority having control thereof; or

(b) unless authorised by law to do so, dump, accumulate, place, deposit or leave any waste whatsoever, whether for gain or otherwise, or cause or allow to be dumped, accumulated, placed, deposited or left such waste on or in—

(i) any road, highway, street, lane, public footway or pavement or any road verge;

(ii) any commonage land, village green, park, recreation ground or other open space to which the public have access;

(iii) any drain, watercourse, flood prone areas, tidal or other water in or abutting on any such road, highway, street, lane, public footway or pavement, roadside or other open space to which the public have access; or

(iv) private or municipal land.

(2) Should a person do any of the acts contemplated in subsection (1), the Municipality may by written notice require any of the following persons to dispose of, destroy or remove the waste within the period stated in the notice:

(a) the person directly or indirectly responsible for dumping, accumulating, placing, depositing, or leaving the waste;

(b) the owner of the waste, whether or not he is responsible for dumping, accumulating, placing, depositing, or leaving the waste; or

(c) the owner of the premises on which the waste was dumped, accumulated, placed, deposited, or left, whether or not he or she is responsible therefore.

(3) If a person fails to comply with the requirements of a written notice, the Municipality may dispose of, destroy or remove the waste and may recover the cost of doing so from the person or persons to whom the notice was issued.

(4) If waste has been deposited in or on any land in contravention of subsection (1) and—

(a) in order to remove or prevent pollution of land, water or air or harm to human health, it is necessary that the waste be forthwith removed or other steps taken to eliminate or reduce the consequences of the deposit or both; and

(b) there is no occupier of the land; or

(c) the owner neither made nor knowingly permitted the deposit of the waste, the Municipality may remove the waste or take other steps to eliminate or reduce the consequences of the deposit and is entitled to recover the cost incurred by it—

(i) from the owner of the land unless he or she proves that he or she neither made nor knowingly caused nor knowingly permitted the deposit of the waste; or  
(ii) from any person who deposited or knowingly caused or knowingly permitted the deposit of any of the waste.

(5) Any waste removed by the Municipality belongs to the Municipality and may be dealt with as the Municipality deems fit.

(6) A person who contravenes a provision of subsection (1) commits an offence.

#### **19. Burning of waste**

No person may burn waste without the written approval of the Municipality.

#### **20. Charges**

(1) The consumer is liable for all tariffs determined in terms of the tariff policy of the Municipality for the removal of waste from premises or the dumping of waste at a disposal site under the control of the Municipality.

(2) Recovery of payments due to the Municipality shall be dealt with in terms of the Municipality's by-law relating to credit control and debt collection and the policy in this regard.

#### **21. Exemptions**

(1) A person may by means of a written application, in which the reasons are given in full, apply to the Municipality for exemption from any provision of this By-law.

(2) The Municipality may—

(a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;

(b) alter or cancel any exemption or condition in an exemption; or

(c) refuse to grant an exemption.

(3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the Municipality under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the Municipality, the exemption lapses.

(4) If any condition of an exemption is not complied with, the exemption lapses immediately.

#### **22. Liaison forums in community**

(1) The Municipality may establish one or more liaison forums in a community for the purposes of—

(a) creating conditions for a local community to participate in the affairs of the Municipality; and

(b) promoting the waste management activities of the Municipality.

(2) A liaison forum may consist of—

(a) a member or members of an interest group, or an affected person in the spirit of section 2(4)(f) to

(h) of the National Environmental Management Act, (Act 107 of 1998);

(b) a member or members of a community in whose immediate area a solid waste disposal site exists or may come be established;

(c) a designated official or officials of the Municipality;

(d) a councillor; and

(e) such other person or persons the Municipality may decide on.

(3) (a) The Municipality may, when considering an application for consent, permit or exemption certificate in terms of this By-law, where applicable, request the input of a liaison forum.

(b) A liaison forum, person or persons contemplated in subsection (2), or any other person may, on own initiative, with due regard to section 31 of the National Environmental Act, 1998 (Act 107 of 1998), submit an input to the Municipality for consideration.

#### **23. Authentication and service of order, notice or other document**

(1) An order, notice or other document requiring authentication by the Municipality must be sufficiently signed by the Municipal Manager shall be deemed to be duly issued if it is signed by the Municipal Manager.

(2) Any notice or other document that is served on a person in terms of this By-law is regarded as having been served—

(a) when it has been delivered to that person personally;

- (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years, but only if it is impossible to serve such notice or document on the person as such;
  - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgment of the posting thereof from the postal service is obtained;
  - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
  - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates, but only if service on such person is impossible; or
  - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate.
- (3) Service of a copy shall be deemed to be service of the original.
- (4) Any legal process is effectively and sufficiently served on the Municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

#### **24. Appeal**

A person whose rights are affected by a decision of the Municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (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 who contravenes any provision or fails to comply with any provision of this By-law, or fails to comply with a notice issued in terms of this By-law, commits an offence and shall on conviction be 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.
- (2) A person commits an offence if he or she—
- (a) threatens, resists, hinders, obstructs or otherwise interferes with, or who uses foul or abusive language towards or at an employee or contractor of the Municipality in the exercise of any powers or performance of any duty or function in terms of this By-law; or
  - (b) impersonates an employee or contractor of the Municipality.

#### **27. Revocation of by-laws**

The provisions of any By-laws previously promulgated by the Municipality or by any of the disestablished municipalities now been incorporated in the Municipality, are hereby repealed as far as they relate to matters provided for in this By-law, and insofar as it has been made applicable to the Municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998).

#### **28. Short title and commencement**

This By-law shall be known as the Swellendam Refuse removal, refuse dumps and solid waste disposal By-law, and commences on the date of publication thereof in the Provincial Gazette.

**SWELLENDAM MUNISIPALITEIT**  
**VERORDENING INSAKE VULLISVERWYDERING, VULLISHOPE EN DIE WEGDOEN VAN**  
**VASTE AFVAL**

Om Vullisverwydering, vullishope en die wegdoen van vaste afvalstowwe en aktiwiteite te reguleer; en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

**AANHEF**

AANGESIEN artikel 156 (2) en (5) van die Grondwet bepaal dat 'n munisipaliteit verordeninge mag uitvaardig en administreer vir die doeltreffende administrasie van die aangeleenthede wat hy die reg het om te administreer, en enige bevoegdheid uit te oefen met betrekking tot 'n aangeleentheid wat redelikerwys nodig is vir, of verband hou met die doeltreffende verrigting van sy funksies;

EN NADEMAAL Deel B van Bylae 4 van die Grondwet, Vullisverwydering, vullishope en die wegdoen van vaste afvalstowwe lys as 'n plaaslike regeringsaangeleentheid in die mate soos uiteengesit in artikel 155 (6) (a) en (7);

EN NADEMAAL die Swellendam Munisipaliteit poog om Vullisverwydering, vullishope en die wegdoen van vaste afvalstowwe te reguleer;

VERORDEN die Swellendam Munisipale Raad soos volg:—

**INHOUDSOPGAWE**

1. Woordomskrywings
2. Teenstrydigheid met ander wetgewing
3. Toepassing van verordening
4. Pligte en bevoegdhede van Munisipaliteit
5. Verpligte gebruik van diens
6. Instelling en beheer van wegdoeningsterrein
7. Toegang tot wegdoeningsterrein
8. Afhaal van afval
9. Eienaarskap van afval
10. Kategorisering van afval
11. Skeiding van afval
12. Voorsiening van afvalhouers
13. Plasing van afvalhouers
14. Onderhoud van afvalhouers
15. Afhaal van afval
16. Toegang tot persele
17. Reg van toegang
18. Storting en rommelstrooiing
19. Verbranding van afval
20. Koste
21. Vrystellings
22. Skakelforums in gemeenskap
23. Magtiging en betekening van bevels, kennisgewings en ander dokumente
24. Appêl
25. Strafbepalings
26. Herroeping van verordeninge
27. Kort titel en inwerkingtreding

## 1. Woordomskrywings

In hierdie Verordening, tensy dit uit die samehang anders blyk, het die volgende woorde die volgende betekenis:

"afval" sluit in—

(a) "besigheidsafval" wat beteken enige saak of stof wat ontstaan deur die gebruik van besigheidspersele maar sluit nie gevaarhoudende afval, materiaal, huishoudelike afval of tuinafval in nie;

(b) "huishoudelike afval" wat beteken enige vrugte of groente skille, vrugte of groente afval, algemene huishoudelike afval wat van sodanige grootte is dat dit in 'n vullisdrom gelaat mag word maar sluit nie tuinafval in nie;

(c) "tuinafval" wat beteken afval wat voortspruit uit 'n tuin aktiwiteit soos gras snysels, blare, plante, blomme of soortgelyke afval van plantaardige oorsprong en van sodanige grootte dat dit in 'n vullisdrom geplaas mag word;

(d) "gevaarhoudende afval" wat beteken enige afval, saak of stof wat gevaarhoudend of skadelik vir die omgewing en inwoners mag wees of die omgewing mag besoedel ingesluit asbes, motorolies of smeermiddels, of enige ander afval, saak of stof wat gevaarhoudende afval bevat soos beoog in die Wet op Gevaarhoudende Stowwe, 1973 (Wet 15 van 1973);

(e) "aanstootlike afval" beteken enige afval, saak of stof wat skadelik vir die omgewing en inwoners mag wees en sluit in, maar nie beperk nie tot—

(i) dierprodukte, dierkarkasse en vleis soos omskryf in die Wet op die Veiligheid van Vleis, 2000 (Wet 40 van 2000) en in die Rooivleis Regulasies uitgevaardig ingevolge GK 1072 van 17 September 2004;

(ii) vrugte of groente of enige byprodukte verkry van sodanige vrugte of groente;

(iii) bederfbare kossoorte; en

(iv) gesondheidsorg afval soos omskryf in die Wes-Kaapse Wet op die Bestuur van Gesondheidsorgafval, 2007 (Wet 7 van 2007);

(f) "materiaal" wat beteken enige klip, rots, sand, boumateriaal of bourommel of enige ander soort kombinasie of kunsmatige materiale soos plastiese pype en soortgelyke materiale asook materiale wat gebruik word in die oprigting van geboue of strukture of enige ander materiale wat materiale verteenwoordig;

"afvalbestuursaktiwiteite" beteken die generering, vermindering en minimalisering van afval, afval hantering, wat insluit die skeiding, berging, afhaal, en vervoer van afval, verwerking van afval en afvalbehandeling, wat insluit die herwinning van afval, herwinning behelsende die hersirkulering, terugwinning en hergebruik en wegdoen van afval;

"afvalhouer" beteken 'n mobiele houer met 'n kapasiteit bepaal en verskaf deur die Munisipaliteit, of alternatiewelik, plastieksakke geskik vir die doel om afval in op te gaar.

"afval oorlaai- en herwinningstasie" 'n afval-hanteringsfasiliteit waar afval, insluitende herwinbare afval of 'n kombinasie daarvan, ontvang en tydelik geberg word;

"eienaar" beteken ook huurder, okkupeerder, bewoner of enige ander persoon wat 'n voordeel van die perseel verkry of daarop geregtig is en sluit ook in enige insolvente boedel, eksekuteur, administrateur, trustee, likwidateur of geregtelike bestuurder;

"munisipaliteit" beteken die Swellendam Munisipaliteit ingevolge artikel 12 van die Wet op Plaaslike Regering Munisipale Strukture, 1998 (Wet 117 van 1998) en sluit enige politieke strukture, politieke ampsbekleër, raadslid, behoorlik gemagtigde agent of enige werknemer in handelende ingevolge hierdie Verordening uit hoofde van 'n bevoegdheid wat in die Munisipaliteit berus en gedelegeer of gesubdelegeer is aan sodanige politieke strukture, politieke ampsbekleër, raadslid, agent of werknemer;

"opsigter" beteken 'n werknemer van die Munisipaliteit of agent van die Munisipaliteit wat behoorlik gemagtig is om in beheer te wees van die wegdoeningsterrein;

"perseel" beteken residensieel-, besigheids- en nywerheidspersele en sluit in enige grond, hetsy vakant, geokkupeer of met geboue daarop, wat deel vorm van 'n stuk grond uitgelê as 'n dorp, binne die regsgebied van die Munisipaliteit, ongeag of dit geproklameer is as 'n dorp;

"persoon" het die betekenis wat deur die Interpretasiewet, 1957 (Wet 33 van 1957), daaraan geheg word en sluit 'n staatsorgaan in.

"verwyderingsdatum" beteken die dag vasgestel deur die Munisipaliteit vir die verwydering van afval van persele en afhangend van die geval mag dit veelvuldige verwyderings per week wees.

"wegdoeningsterrein" 'n terrein wat ingevolge die bepalings van die Wet op Nasionale Omgewingsbestuur, 1998 (Wet 107 van 1998), soos gewysig, gelisensieër is vir die doel om sodanige afval weg te doen of te behandel en dit sluit 'n afval oorlaai- en herwinningstasie in.

## **2. Teenstrydigheid met ander wetgewing**

- (1) In die geval van teenstrydigheid tussen enige bepaling van hierdie Verordening en Nasionale- en Provinsiale wetgewing, standarde, beleid of riglyne, sal sodanige Nasionale- en Provinsiale wetgewing, standarde, beleid of riglyne voorrang geniet onderhewig aan artikels 151(3) en 156(4) van die Grondwet.
- (2) In die geval van enige teenstrydigheid tussen verskillende vertalings geld die Engelse teks.

## **3. Toepassing van verordening**

- (1) Die bepalings van hierdie Verordening doen nie afbreuk aan die bepalings van enige omgewingswetgewing of enige ander wetgewing wat voorsiening maak vir die verwydering of wegdoen van spesifieke tipes vullis of afval soos in daardie wetgewing bepaal nie.
- (2) Hierdie Verordening bind 'n staatsorgaan.

## **4. Pligte en bevoegdhede van munisipaliteit**

- (1) Die Munisipaliteit as die primêre diensverskaffer in die munisipale gebied het 'n plig teenoor die plaaslike gemeenskap om progressief effektiewe, bekostigbare, ekonomiese en volhoubare toegang tot afvalbestuursdienste in sy gebied of deel van sy gebied, te verseker.
- (2) Hierdie plig is onderhewig aan—
- (a) die plig van lede van die plaaslike gemeenskap as gebruikers van die Munisipaliteit se afval bestuursdienste of enige ander persoon wat van die Munisipaliteit se afval bestuursdienste gebruik maak, om die voorgeskrewe koste vir die voorsiening van die dienste, wat geprys moet word in ooreenstemming met enige nasionale voorgeskrewe norme en standarde vir belastinge en tariewe, te betaal; en
- (b) die reg van die Munisipaliteit om tussen geografiese gebiede te differensieer wanneer soorte afval bestuursdienste voorsien word, sonder om diensgelykheid ooreenkomstig die Grondwet of die integriteit van die natuurlike omgewing te kompromitteer.
- (3) Die Munisipaliteit moet te alle tye, maar onderhewig aan die bepalings van hierdie Verordening, 'n diens voorsien aan gebruikers van die dienste teen 'n koste voorgeskryf deur die Munisipaliteit, voorsien—
- (a) vir die afhaal van afval op 'n gereelde basis, behalwe afval in sy gebied wat so geleë is dat die koste vir afhaal daarvan onredelik hoog sal wees; en
- (b) toegang tot fasiliteite vir die herwinning en wegdoen van afval.
- (4) Die Munisipaliteit moet alle gebruikers van sy afval bestuursaktiwiteite in kennis stel asook van besluite geneem ingevolge hierdie Verordening.

## **5. Verpligte gebruik van diens**

- (1) Niemand behalwe die Munisipaliteit of 'n persoon gemagtig deur die Munisipaliteit mag enige vullis van enige perseel verwyder of daarvan wegdoen nie.
- (2) Elke eienaar van persele waar 'n diens gelewer word, moet gebruik maak van die diens wat deur die Munisipaliteit voorsien word vir die verwydering of wegdoen van vullis, ten opsigte van vullis wat vanaf sodanige persele ontstaan.
- (3) Die tarief, soos jaarliks as deel van die begrotingsproses vasgestel deur die Munisipaliteit, sal deur die eienaar aan die Munisipaliteit betaalbaar wees, ongeag of van die diens gebruik gemaak word, aldan nie.
- (4) Die bepalings van hierdie artikel is nie van toepassing op 'n eienaar van residensiële persele wat by geleentheid verlang om tuinvullis of bourommel wat op sodanige perseel gegenereer is, weg te doen nie.
- (5) 'n Persoon wat die bepalings van subartikels (1) en (2) oortree begaan 'n misdryf.

## **6. Instelling en beheer van wegdoeningsterrein**

Die Munisipaliteit mag 'n wegdoeningsterrein instel en beheer, of agente aanstel of 'n ander persoon of liggaam kontrakteer om 'n wegdoeningsterrein namens die Munisipaliteit te beheer, te bestuur en te bedryf ooreenkomstig die bepalings van hierdie Verordening en die bepalings van enige ander wetgewing wat van toepassing mag wees.

## **7. Toegang tot wegdoeningsterrein**

- (1) Slegs 'n persoon wat verlang om afval te stort en die voorgeskrewe gelde betaal het of wat in besit is van 'n skriftelike toestemming uitgereik deur die Munisipaliteit wat hom of haar toelaat om sodanige afval by 'n stortingssterrein te stort en 'n persoon wat die skriftelike toestemming van die Munisipaliteit

verkry het om enige materiaal of voorwerpe op sodanige perseel te herbenut, is geregtig om die wegdoeningsterrein binne te gaan of op die terrein te wees.

(2) Nieteenstaande enigiets tot die teendeel bevat in hierdie Verordening, mag enige werknemer van die Munisipaliteit of enigiemand wat namens die Munisipaliteit handel en behoorlik daartoe gemagtig is, 'n wegdoeningsterrein te enige tyd binnegaan vir die verrigting van sy of haar pligte.

(3) 'n Persoon wat van die wegdoeningsterrein gebruik maak of die wegdoeningsterrein binnegaan, doen dit op sy of haar eie risiko en die Munisipaliteit aanvaar geen verantwoordelikheid vir die veiligheid van sodanige persoon of enige skade of verlies deur sodanige persoon nie.

(4) 'n Persoon wat die wegdoeningsterrein binnegaan of wat op sodanige terrein gevind word in stryd met die bepallings van hierdie artikel begaan 'n misdryf.

#### **8. Aflaal van afval**

(1) 'n Persoon wat verlang om afval by 'n wegdoeningsterrein te stort, moet sodanige afval aflaal op 'n plek binne die grense van die wegdoeningsterrein en op sodanige wyse soos die opsigter mag voorskryf.

(2) Die Munisipaliteit mag—

(a) enige deel van 'n wegdoeningsterrein opsyf waar slegs afval van 'n bepaalde soort gestort of agtergelaat mag word;

(b) die soort of grootte voertuig waarvan afval by enige wegdoeningsterrein gestort of agtergelaat mag word, beperk;

(c) die hoeveelheid afval in die algemeen of die hoeveelheid afval van 'n bepaalde soort wat by enige wegdoeningsterrein gestort of agtergelaat mag word, beperk; en

(d) die dae wanneer en ure waartydens storting by enige wegdoeningsterrein mag plaasvind, bepaal.

(3) Enige vereiste opgelê ingevolge hierdie Verordening moet vir die publiek aangedui word by wyse van 'n toepaslike kennisgewing wat by die ingang tot die betrokke wegdoeningsterrein opgerig is en enige instruksie uitgerelk deur 'n beampte van die Munisipaliteit of 'n persoon handelende namens die Munisipaliteit in beheer van toegang kontrole by die wegdoeningsterrein, sal streng nagekom word.

(4) Nieteenstaande die bepalinge van subartikel (2) behou die Munisipaliteit die reg voor om nie die storting van gevaarhoudende of offensiewe afval by 'n wegdoeningsterrein toe te laat nie.

(5) Nieteenstaande die bepalinge van subartikels (1) tot (4), mag die Munisipaliteit, in ooreenstemming met die betrokke skakelforum, beleid of riglyne bepaal om uitvoering te gee aan die bepalinge van hierdie artikel.

(6) 'n Persoon wat enige van die bepalinge van hierdie artikel oortree of versuim om gehoor te gee aan enige voorskrif in terme van gemelde beleid of riglyne begaan 'n misdryf.

#### **9. Eienaarskap van afval**

(1) Afval gestort by enige wegdoeningsterrein word die eiendom van die Munisipaliteit en geen persoon wat nie behoorlik deur die Munisipaliteit daartoe gemagtig is nie, mag sodanige afval verwyder of daarmee inmeng nie.

(2) 'n Persoon wat subartikel (1) oortree begaan 'n misdryf.

#### **10. Kategorisering van afval**

Die Munisipaliteit mag, vir doeleindes van hierdie Verordening, afval in verskillende kategorieë kategoriseer.

#### **11. Skeiding van afval vir herwinningdoeleindes**

Die Munisipaliteit mag vereis dat afval in verskillende soorte en aard van afval geskei word vir die doeleindes van herwinning of vir enige ander doel ingevolge hierdie Verordening.

#### **12. Voorsiening van afvalhouers**

(1) Die Munisipaliteit mag—

(a) gestandaardiseerde afvalhouers, of alternatiewelik plastieksakke, voorsien vir die wegdoening van afval gegenereer op persele; en

(b) die gebruik van houers en deksels vervaardig van rubber of ander materiaal magtig waar die ontwerp en vervaardiging deur die Munisipaliteit goedgekeur is.

(2) Afvalhouers en plastieksakke voorsien ingevolge subartikel (1) bly die eiendom van die Munisipaliteit.

(3) Die Munisipaliteit mag spesiale afvalhouers voorskryf vir die ontvangs en berging van sodanige soorte afval soos deur die Munisipaliteit gespesifiseer mag word en mag by skriftelike kennisgewing

aan die eienaar van persele vereis om op sy of haar koste sodanige getal spesiale afvalhouers te voorsien soos bepaal in die kennisgewing.

(4) Waar enige afvalhouers voorsien word op persele—

(a) van 'n soort is wat waarskynlik die effektiewe verwydering van afval daarvan deur werknemers van die Munisipaliteit mag belemmer;

(b) onvoldoende is vir die ontvangs van alle afval wat deur die Munisipaliteit van sodanige perseel verwyder moet word;

(c) verval is; of

(d) waarskynlik 'n steurnis kan veroorsaak, mag die Munisipaliteit by kennisgewing van die eienaar van die perseel vereis om op sy of haar koste 'n addisionele getal afvalhouers of sodanige ander bergingsbak soos nodig mag wees om aan die bepalings van hierdie Verordening te voldoen, te voorsien.

(5) 'n Afvalhouer sal soos en wanneer nodig vervang word, met dien verstande dat waar sodanige afvalhouer vervang moet word as gevolg van diefstal of skade, veroorsaak weens die nalatigheid van die eienaar, sodanige eienaar aanspreeklik gehou sal word vir die koste om dit te vervang.

(6) Geen persoon mag enige afval wegdoen deur dit op enige ander plek as in die afvalhouer voorsien en goedgekeur deur die Munisipaliteit, te plaas nie.

(7) In die geval van 'n groepontwikkeling mag die Munisipaliteit minder afvalhouers per huishouding voorsien onderworpe aan die volgende voorwaardes—

(a) 'n sentrale vullis afhaafpunt moet deur die bestuursliggaam voorsien word;

(b) die bestuursliggaam moet skriftelik aansoek doen vir die vermindering van afvalhouers uitgereik aan die ontwikkeling;

(c) die verminderde getal afvalhouers moet deur die Munisipaliteit goedgekeur word; en

(d) die bestuursliggaam sal aanspreeklik gehou word vir die betaling van die afvalverwydering rekening gelykstaande aan die koste asof die voorgeskrewe hoeveelheid individuele afvalhouers wel bestaan.

(8) 'n Persoon wat die bepalings van subartikel (6) oortree of in gebreke bly om aan 'n kennisgewing uitgereik ingevolge subartikels (3) en (4) te voldoen begaan 'n misdryf.

### 13. Plasing van afvalhouers

(1) Die eienaar van persele moet voldoende ruimte op of aan die perseel voorsien waar 'n afvalhouer of ander houder vir die doel om afval agter te laat of 'n spesifieke kategorie van afval gehou word, en die ruimte moet —

(a) moet voldoen aan vereistes by kennisgewing deur die Munisipaliteit aan die eienaar opgelê;

(b) waar van toepassing, gebou wees in ooreenstemming met die vereistes van enige toepaslike bouregulasies en so geleë wees dat die afvalhouer of bak nie vanaf 'n straat of openbare plek sigbaar of onooglik is nie;

(c) waar toepaslik, so geleë wees om gemaklike toegang na en uitgang van sodanige ruimte vir 'n afvalverwydering voertuig te verleen; en

(d) in 'n ligging wees om gemaklik deur gebruikers of bewoners van die perseel gebruik te word sodat dit rommelstrooiing of ongesonde versameling van afval ontmoedig.

(2) In die geval van meer-verdieping geboue, mag die Munisipaliteit die installering van vullisgylgange van 'n goedgekeurde ontwerp en spesifikasie goedkeur, en onderworpe aan die voorlegging en goedkeuring van die planne vir sodanige installasie.

(3) Die eienaar van persele moet die afvalhouers plaas of bewerkstellig dat dit geplaas word in die ruimte voorsien en moet dit te alle tye daar hou.

(4) 'n Persoon wat 'n bepaling van subartikels (1) of (3) oortree begaan 'n misdryf.

### 14. Onderhoud van afvalhouers

(1) Die okkupeerder van 'n perseel moet verseker dat 'n afvalhouer anders as plastieksakke—

(a) te alle tye onderhou word in 'n goeie toestand en herstel;

(b) op 'n gereelde basis leeg en skoongemaak word wanneer vol, sodat die inhoud daarvan nie 'n steurnis raak of gronde vir klagtes voorsien nie;

(c) te alle tye wanneer afval nie daarin agtergelaat of daarvan verwyder word, beskerm word teen ongemagtigde verstoring of inmenging.

(2) Geen persoon mag 'n afvalhouer van enige perseel waaraan dit toegeken is verwyder of vernietig of beskadig nie, of toelaat dat dit verwyder, vernietig of beskadig word.

(3) 'n Persoon wat enige bepaling van hierdie artikel oortree begaan 'n misdryf.

#### 15. Afhaal van afval

(1) Die Munisipaliteit mag 'n posisie binne of buite die perseel aandui waar afvalhouers geplaas moet word vir die afhaal en verwydering daarvan en mag vereis dat sekere soorte afval, soos tuinafval, saamgebund of verpak en geplaas word in daardie posisie op die tye en vir 'n periode soos die Munisipaliteit mag vereis.

(2) Die Munisipaliteit sal op verwyderingsdae slegs afval wat in afvalhouers of ander houers deur dit goedgekeur, of wat saamgebund en verpak is op 'n wyse goedgekeur deur die Munisipaliteit, afhaal.

(3) Waar 'n spesifieke soort van afval soos bepaal deur die Munisipaliteit nie deur die Munisipaliteit by die perseel afgehaal word nie, moet die eienaar van die afval reëlings tref vir die afhaal en vervoer van die afval so dikwels as wat nodig mag wees om onbehoorlike versameling of enige steurnis wat daaruit voortspruit te voorkom, na 'n wegdoeningsterrein of prosesseringsperseel onder beheer van die Munisipaliteit, of na sodanige ander plek soos goedgekeur deur die Munisipaliteit.

(4) Die Munisipaliteit mag op verskillende tye besluit waarop bepaalde kategorieë van afval afgehaal word.

(5) Die Munisipaliteit mag—

(a) bewerkstellig dat verwyderings by gereelde periodes daaglik of andersins gedoen word, en mag verwydering datums verander;

(b) die getal verwyderings vermeerder soos wat dit nodig of wenslik mag ag; of

(c) addisionele verwyderings doen indien dit wenslik geag word.

(6) In die geval waar enige addisionele verwyderings deur die eienaar van persele vereis word, sal die addisionele verwyderings onderworpe wees aan die goedkeuring van die Munisipaliteit en enige addisionele verwydering moet deur die eienaar van persele waarvan die afval afgehaal word, betaal word teen die tarief wat jaarliks voorgeskryf word deur die Munisipaliteit.

(7) Die Munisipaliteit mag, by aansoek deur die eienaar van persele, alternatiewe reëlings goedkeur vir die verwydering van afval van sodanige persele.

(8) 'n Persoon wat die bepalinge van subartikels (1) of (3) oortree begaan 'n misdryf.

#### 16. Toegang tot persele

Tensy anders goedgekeur deur die Munisipaliteit, moet die eienaar van persele verseker dat toegang vanaf die naaste openbare pad na die afvalbergingsgebied op die perseel onafhanklik en onbelemmerd is, en 'n eienaar wat in gebreke bly om dit te doen begaan 'n misdryf.

#### 17. Reg van toegang

(1) Enige behoorlik gemagtigde beampte van die Munisipaliteit is geregtig om persele ten opsigte waarvan die Munisipaliteit se afvalbestuursdiens gelewer word op enige redelike tyd op enige dag, of op enige ander tyd waarop die diens gewoonlik gelewer word, binne te gaan vir enige van die volgende doeleindes—

(a) vir afhaal en toesighouding van die afhaal van afval;

(b) om afvalhouers te vervang; of

(c) om die wyse van toegang tot die perseel of die ruimte waar afvalhouers gehou word te inspekteer, ten einde te verseker dat dit toeganklik en gemaklik vir die afhalers is.

(2) Die eienaar van 'n perseel mag nie toegang tot die perseel deur 'n behoorlik gemagtigde werknemer van die Munisipaliteit weier nie, en sodanige werknemer moet op versoek sy identiteit toon.

(3) 'n Eienaar van persele begaan 'n misdryf wanneer hy of sy—

(a) toegang tot die perseel aan 'n gemagtigde beampte van die Munisipaliteit in die uitoefening van sy of haar pligte, weier; of

(b) sodanige werknemer belemmer of hinder in die uitoefening van sy of haar pligte.

#### 18. Storting en rommelstrooiing

(1) Geen persoon mag—

(a) behalwe met toestemming van die eienaar of van die persoon of owerheid wat beheer daaroor het; of

(b) tensy gemagtig deur wet om dit te doen, enige afval hoegenaamd stort, versamel, plaas, aflaai of laat, hetsy vir wins of andersins, of veroorsaak of toelaat om gestort, versamel, geplaas, afgelaai of gelaat te word op of in—

(i) enige pad, snelweg, straat, laan, openbare voetpad of sygaardjie of enige padgrens;

(ii) enige meentgrond, dorpstuijn, park, ontspanningsgrond of ander openbare plek waartoe die publiek toegang het;

(iii) enige drein, waterweg, vloedliggende gebiede, gety of ander water in of aangrensend tot enige sodanige pad, snelweg, straat, laan, openbare voetpad of sypaadjie, padrand of ander openbare plek waartoe die publiek toegang het; of

(iv) privaat of munisipale grond.

(2) Indien enige persoon enige van die handelinge beoog in subartikel (1) verrig, mag die Munisipaliteit by skriftelike kennisgewing enige van die volgende persone vereis om die afval binne die periode gemeld in die kennisgewing mee weg te doen, te vernietig of te verwyder:-

(a) die persoon direk of indirek verantwoordelik vir die storting, versameling, plasing, aflaai of laat van die afval;

(b) die eienaar van die afval, ongeag of hy of sy verantwoordelik is vir die storting, versameling, plasing, aflaai of laat van die afval, al dan nie; of

(c) die eienaar van die perseel waarop die afval gestort, versameling, geplaas, afgelaai of gelaat is, ongeag of hy of sy daarvoor verantwoordelik is, al dan nie.

(3) Indien 'n persoon versuim om aan die vereistes van 'n skriftelike kennisgewing te voldoen, mag die Munisipaliteit die afval mee wegdoen, vernietig of verwyder en mag die koste daarvan van die persoon of persone aan wie die kennisgewing uitgereik is, verhaal.

(4) Indien afval afgelaai is in of op enige grond in stryd met subartikel (1) en—

(a) ten einde besoedeling van grond, water en lug of skade aan menslike gesondheid uit te skakel of te voorkom, dit nodig is dat die afval onmiddellik verwyder of ander stappe geneem word om die gevolge van die aflaai te elimineer of te verminder of beide; en

(b) daar geen okkupeerder van die grond is nie; of

(c) die eienaar nie die aflaai gedoen of wetende die aflaai van die afval toegelaat het nie, mag die Munisipaliteit die afval mee wegdoen of ander stappe neem om die gevolge van die aflaai te elimineer of te verminder en is geregtig om die koste aangegaan te verhaal—

(i) van die eienaar van die grond tensy hy of sy bewys dat hy of sy nie die aflaai gedoen of wetende veroorsaak of wetende die aflaai van die afval toegelaat het nie; of

(ii) van enige persoon wat die aflaai gedoen of wetende veroorsaak of wetende die aflaai van enige van die afval toegelaat het.

(5) Enige afval wat deur die Munisipaliteit verwyder word behoort aan die Munisipaliteit en mag mee gehandel word soos die Munisipaliteit goeddink.

(6) 'n Persoon wat die bepalinge van subartikel (1) oortree begaan 'n misdryf.

#### 19. Verbranding van afval

Geen persoon mag afval sonder die skriftelike goedkeuring van die Munisipaliteit brand nie.

#### 20. Koste

(1) Die gebruiker is aanspreeklik vir alle koste bepaal ingevolge die tariefbeleidverordening van die Munisipaliteit vir die verwydering van afval van persele of die storting van afval by 'n wegdoeningsterrein onder beheer van die Munisipaliteit.

(2) Verhaling van koste verskuldig aan die Munisipaliteit word hanteer in terme van die Munisipaliteit se verordening insake kredietbeheer en skuldinvordering en die beleid in die verband.

#### 21. Vrystellings

(1) 'n Persoon mag by wyse van 'n skriftelike aansoek, waarin die redes volledig gegee word, by die Munisipaliteit aansoek doen om vrystelling van enige bepaling van hierdie Verordening.

(2) Die Munisipaliteit mag—

(a) 'n vrystelling skriftelik toestaan en die voorwaardes ingevolge waarvan, indien enige, en die periode waarvoor sodanige vrystelling toegestaan is, moet daarin gemeld word;

(b) enige vrystelling of voorwaarde in 'n vrystelling wysig of kanselleer; of

(c) weier om 'n vrystelling toe te staan.

(3) 'n Vrystelling tree nie in werking voordat die aansoeker skriftelik ondemeem het om aan al die voorwaardes deur die Munisipaliteit opgelê ingevolge subartikel (2) te voldoen nie, met dien verstande dat die vrystelling verval indien 'n aktiwiteit 'n aanvang neem voordat sodanige onderneming aan die Munisipaliteit voorgeleë is.

(4) Indien enige voorwaarde van 'n vrystelling nie nagekom word nie, verval die vrystelling onmiddellik.

## 22. Skakelforums in gemeenskap

- (1) Die Munisipaliteit mag een of meer skakelforums in die gemeenskap instel vir doeleindes om—
- (a) omstandighede vir 'n plaaslike gemeenskap te skep om deel te neem aan die sake van die Munisipaliteit; en
  - (b) die afvalbestuursaktiwiteite van die Munisipaliteit te bevorder.
- (2) 'n Skakelforum mag bestaan uit—
- (a) 'n lid of lede van 'n belangegroep of 'n geaffekteerde persoon, in die gees van artikel 2(4) (f) tot (h) van die Wet op Nasionale Omgewingsbestuur, 1998 (Wet 107 van 1998);
  - (b) 'n lid of lede van 'n gemeenskap in wie se onmiddellike gebied 'n vaste afval wegdoeningsterrein bestaan of ingestel mag word;
  - (c) 'n aangewese beampte of beamptes van die Munisipaliteit;
  - (d) 'n raadslid; en
  - (e) sodanige ander persoon of persone wat die Munisipaliteit mag besluit.
- (3) (a) Die Munisipaliteit mag, wanneer 'n aansoek om toestemming, permit of vrystellingsertifikaat ingevolge hierdie Verordening, waar toepaslik, oorweeg word die insette van 'n skakelforum versoek.
- (b) 'n Skakelforum, persoon of persone beoog in subartikel (2), of enige ander persoon mag, op eie inisiatief, met inagneming van artikel 31 van die Wet op Nasionale Omgewingsbestuur, 1998 'n inset aan die Munisipaliteit vir oorweging voorsien.

## 23. Magtiging en betekening van bevele, kennisgewings en ander dokumente

- (1) 'n Bevel, kennisgewing of ander dokument wat magtiging deur die Munisipaliteit vereis, moet behoorlik deur die Munisipale Bestuurder geteken word en sal geag behoorlik uitgereik te wees indien dit geteken is deur die Munisipale Bestuurder.
- (2) 'n Kennisgewing of ander dokument wat op 'n persoon beteken word ingevolge hierdie Verordeninge, word as beteken geag—
- (a) wanneer dit persoonlik aan daardie persoon gelewer is;
  - (b) wanneer dit by daardie persoon se woonplek of sakeperseel binne die Republiek gelaat is by 'n persoon wat oënskynlik ouer as sestig jaar is, maar slegs indien dit onmoontlik is om op die persoon self te beteken;
  - (c) wanneer dit per geregistreerde of gesertifiseerde pos na daardie persoon se laaste bekende woon- of sakeadres binne die Republiek versend is en 'n erkenning van so 'n versending van die posdienste verkry is;
  - (d) indien so 'n persoon se adres binne die Republiek onbekend is, wanneer dit op daardie persoon se agent of verteenwoordiger binne die Republiek beteken is op die wyse soos voorsien in paragrawe (a), (b) of (c);
  - (e) indien daardie persoon se adres en agent of verteenwoordiger binne die Republiek onbekend is, wanneer dit op 'n opsigtelike plek op die eiendom of perseel, indien enige, waarop dit betrekking het, geplaas is, maar slegs indien dit onmoontlik is om op die persoon self te beteken; of
  - (f) in die geval van 'n beheerliggaam, wanneer dit by die geregistreerde kantoor van die sakeperseel van sodanige beheerliggaam gelewer is;
- (3) Betekening van 'n afskrif word geag die betekening van die oorspronklike te wees.
- (4) Enige regsproses word effektief en voldoende op die Munisipaliteit beteken wanneer dit aan die munisipale bestuurder of 'n persoon aanwesig in die kantoor van die munisipale bestuurder, gelewer is.

## 24. Appèl

'n Persoon wie se regte geraak word deur 'n besluit van die Munisipaliteit mag teen sodanige besluit appelleer ingevolge artikel 62 die Wet op Plaaslike Regering: Munisipale Stelsels, 2000, (Wet 32 van 2000) deur skriftelike kennisgewing van die appèl en die redes daarvoor binne 21 dae vanaf die datum van bekendmaking van die besluit, aan die munisipale bestuurder te gee.

## 25. Strafbepalings

- (1) 'n Persoon wat enige bepaling van hierdie Verordening oortree of versuim om daaraan te voldoen of versuim om te voldoen aan 'n kennisgewing uitgereik ingevolge hierdie Verordening, pleeg 'n misdryf en kan by skuldigbevinding—
- (a) 'n boete of gevangenisstraf opgelê word, of sodanige boete of gevangenisstraf, of beide sodanige boete en sodanige gevangenisstraf; en
  - (b) in die geval van 'n voortgesette misdryf, 'n bykomende boete of 'n bykomende tydperk van gevangenisstraf of sodanige bykomende gevangenisstraf sonder die opsie van 'n boete of beide sodanige bykomende boete en gevangenisstraf vir elke dag waarop sodanige misdryf voortduur; en

- (c) 'n verdere bedrag gelyk aan enige koste en uitgawes wat die hof bevind deur die Munisipaliteit aangegaan is weens sodanige oortreding of versuim.
- (2) 'n Persoon pleeg 'n misdryf indien hy of sy—
- (a) 'n werknemer of kontrakteur van die Munisipaliteit in die uitvoering van enige magte of die verrigting van enige funksie of plig ingevolge hierdie verordening dreig, teenstaan, hinder, belemmer of hom of haar andersins pla of vuil taal of skeltaal teenoor hom of haar gebruik; of
- (b) hom of haar as 'n werknemer of kontrakteur van die Munisipaliteit voordoën.

**26. Herroeping van verordeninge**

Die bepalings van enige verordeninge wat voorheen deur die Munisipaliteit of deur enige van die afgeskafte munisipaliteite wat nou in die Munisipaliteit geïnkorporeer is, afgekondig is, word hiermee herroep insoverre hulle betrekking het op sake waarvoor daar in hierdie Verordening voorsiening gemaak word.

**27. Kort titel en inwerkingtrede**

Hierdie Verordening staan bekend as die Swellendam Verordening insake Vullisverwydering, vullishope en die wegdoen van vaste afvalstowwe en tree in werking op die datum van publikasie daarvan in die Provinsiale Koerant.