

REFUSE REMOVAL AND DISPOSAL BY-LAWS

Be it enacted by the Council of the Endumeni Municipality in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

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Section 1 : Definitions

1. For the purposes of these by-laws, unless the context indicates otherwise:

"authorised official" means any official of the Council who has been authorised by the Council to administer, implement or enforce the provisions of these by-laws;

"builder's refuse" means refuse generated by demolition, excavation or building activities on premises;

"Council" means the council of the Endumeni Municipality;

"disposal facility" means a site for the disposal of refuse which is owned by the Council or has been approved for that purpose by the Council;

"domestic refuse" means refuse of a kind normally produced or generated on residential premises, but shall not include sand, earth, liquid matter, garden refuse or the carcass of any animal or special domestic refuse;

"garden refuse" means light refuse which is generated as a result of normal gardening activities on any premises, including without limiting the generality of the foregoing grass cuttings, leaves, plants, flowers, weeds, hedge clippings or the branches of trees;

"industrial refuse" means refuse in solid form which is generated as a result of industrial manufacturing activities but shall not include builder's refuse, special industrial refuse or commercial refuse;

"occupier" includes any person in actual occupation of premises without regard to the title under which he or she occupies, if any;

"owner" means -

- (a) the person in whom from time to time is vested the legal title to premises;
- (b) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of his property is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;

(c) in any case where the Council is unable to determine the identity of such person, a person who is entitled to the benefit of the use of the premises or a building or buildings thereon;

(d) in a case where such premises have been leased for a period of 30 years or longer, the lessee thereof;

(e) in relation to -

(i) a piece of land delineated on a sectional plan registered terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), the developer or the body corporate in respect of the common property; or

(ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed, and includes the lawfully appointed agent of such a person;

"refuse container" means a container other than a refuse receptacle and whether wheeled or otherwise, designed for the temporary storage and removal of refuse which is supplied by the Council in terms of section 3(4) or by a contractor approved in terms of section 2(3);

"refuse receptacle" means a receptacle which complies with either South African Bureau of Standards specification 493-1973: Steel Refuse Bins or 1310-1980: Refuse Bins of Polymeric Materials, both as published by General Notice No. 463 of 9 July 1982;

"residential premises" means premises occupied for the purposes of human habitation, but excludes an accommodation establishment as defined in section 1 of the Hotels Act, 1965 (Act 70 of 1965);

"special domestic refuse" means refuse discarded from residential premises which cannot by virtue of its mass, shape, size or volume be conveniently stored in a refuse receptacle or container;

"special industrial refuse" means refuse, consisting of a liquid or sludge, resulting from industrial operations which may not be discarded into a sewer;

"tariff charge" means the appropriate charge as set out in the tariff of charges adopted by resolution of the Council from time to time; and

"commercial refuse" means refuse generated in the course of the conduct of a business but shall not include industrial refuse.

Section 2 : Collection and removal of refuse

2.(1) The occupier of every premises upon which refuse is generated or, in the case of premises which are occupied by more than one person, the owner of such premises, shall make provision for the temporary storage, collection and removal of such refuse either by the Council or by a refuse removal contractor.

(2) The Council shall at no charge collect and remove –

- (a) domestic refuse; and
- (b) commercial refuse.

(3) The Council may, in its discretion, and subject to the charge set out in its tariff of charges, collect and remove –

- (a) builders' refuse;
- (b) industrial refuse;
- (c) special industrial refuse; and
- (d) special domestic refuse.

(4) Where the Council declines to collect and remove any waste referred to in subsection (3), the owner or occupier shall make appropriate arrangements for the lawful collection, removal and disposal of such waste.

(5) The owner or occupier of premises may himself or herself remove or cause to be removed any refuse generated thereon to a disposal site, provided that such removal and disposal is conducted in a lawful manner.

(6) Every occupier of new premises or premises on which the generation of domestic or commercial refuse is about to be commenced, or in the case of premises being occupied by more than one person, the owner of such premises shall, prior to the commencement of the generation of such refuse, notify the Council in writing -

- (a) that the premises are being occupied; and
- (b) whether commercial refuse or domestic refuse or both is or are to be generated on the premises.

Section 3 : Refuse receptacles

1) Subject to the provisions of subsection (4), every occupier or owner referred to in section 2(1) shall provide on his or her premises such number of refuse receptacles as is adequate for the purpose of the temporary storage of all refuse, other than garden, special domestic and special industrial refuse, as may be generated on his or her premises pending its removal in terms of these by-laws.

(2) The occupier or owner referred to in subsection (1) shall ensure that refuse receptacles provided by him or her in terms of that subsection are maintained in a sound and serviceable condition and that receptacles which are no longer capable of being so maintained are replaced by him or her.

(3) Whenever the Council is of the opinion that a person has not complied with the provisions of this section it may cause a written notice to be served on such person calling upon him or her to comply with such provisions within a period specified in the notice.

(4) The Council may at its sole discretion supply refuse containers to premises if Council considers such containers more appropriate for the storage and removal of refuse than refuse receptacles having regard to –

- (a) the quantity of refuse generated on the premises concerned;
- (b) the suitability of such refuse for storage in such containers; and
- (c) the accessibility of the refuse storage area to the Council's refuse collection vehicles.

(5) Refuse containers supplied by the Council in terms of sub-section (4) –

- (a) may not be used for any purpose other than the storage of commercial, domestic, industrial or garden refuse;
- (b) remain the property of the Council and may at any time either be replaced or removed by it; and
- (c) are the responsibility of the owner or occupier, as the case may be, who shall be liable to the Council for the loss thereof or any damage thereto, except such as has been caused by the Council's employees.

Section 4 : Duties of owner or occupier

Every occupier of premises, or in the case of premises being occupied by more than one person, the owner of such premises, shall ensure that-

- (a) all domestic and commercial refuse generated on the premises is placed and kept in refuse receptacles, refuse containers or disposable plastic refuse bags for removal;
- (b) builders' refuse, garden refuse, industrial refuse, special industrial refuse and special domestic refuse is appropriately stored and clearly indicated as such;
- (c) no hot ash, unwrapped glass fragments or other refuse which may cause damage to refuse receptacles, refuse containers or disposable plastic refuse bags, or which may cause injury to the persons or vehicles employed in removing the refuse from the premises, is placed in refuse receptacles or refuse containers before such steps as may be necessary to avoid such damage or injury have been taken;
- (d) no material, including any liquid, which by reason of its mass or other characteristics is likely to render such refuse receptacles or disposal plastic refuse bags unreasonably difficult for the Council's employees to handle or carry, is placed therein;
- (e) every refuse receptacle and refuse container on the premises is properly covered by means of a lid or other covering supplied therewith so as to prevent any nuisance or health hazard;
- (f) every receptacle or container is kept in a clean and hygienic condition; and
- (g) all which has toxic or other harmful properties is suitably treated to the satisfaction of the Council.

Section 5 : Collection and removal of refuse

(1) The Council shall from time to time determine the day or days upon which refuse which is to be removed by the Council in terms of these by-laws will be collected in the various areas under its jurisdiction.

(2) On the day or days which have been determined in terms of subsection (1) for a particular area every owner or occupier, as the case may be, of premises within that area shall place such refuse containers, refuse receptacles or disposable plastic refuse bags containing refuse immediately inside the boundary of the premises and adjacent either to the pedestrian or the vehicular access to the premises from a street.

(3) No owner or occupier, as the case may be, of any premises shall, unless authorised in writing by the Council, deposit or allow to be deposited any refuse other than domestic refuse or commercial refuse in any refuse receptacle or refuse container the contents of which are removable free of charge by the Council.

(4) The owner or occupier of any premises on which bulky refuse of any kind is produced, kept, or accumulated shall, when required thereto under notice in writing from the Council, tie up securely or cause to be tied up securely such refuse into bales or bundles of convenient size.

Section 6 : Access to premises

The occupier or owner of premises to which the council provides a refuse removal service, as the case may be, shall grant the council convenient access to the premises for the purpose of collecting and removing refuse and shall ensure that nothing obstructs, frustrates or hinders the Council and its employees in the carrying out of its service.

Section 7 : Accumulation of refuse

7. Where any refuse accumulates on premises so as to constitute a nuisance or so as to render it likely that a nuisance will be created thereby, the Council may make a special removal of such refuse and the owner or occupier shall be liable in respect of such special removal to pay the tariff charge therefor.

Section 8 : Removal and disposal of garden, special domestic and bulky refuse

(1) The occupier or, in the case of premises occupied by more than one person, the owner of premises on which garden, special domestic or bulky refuse is generated shall ensure that such refuse is disposed of in terms of this section within a reasonable time after the generation thereof; provided that garden refuse may be retained on the premises for the making of compost.

(2) Any person may remove and dispose of his own garden, special domestic and bulky refuse.

(3) Garden, special domestic and bulky refuse shall, once it has been removed from the premises on which it was generated, be deposited on a site designated by the Council as a disposal facility for such refuse against payment of the tariff charge.

(4) At the request of the owner or any occupier of premises the Council may at the tariff charge remove garden, special domestic and bulky refuse from premises.

Section 9 : Responsibility for builder's refuse

The owner of premises on which builder's refuse is generated shall ensure that such refuse is disposed of in terms of section 11 within a reasonable time after the generation thereof.

Section 10 : Disposal of builder's refuse

(1) Subject to the provisions of subsection (2) hereof all builder's refuse shall be deposited at the Council's disposal sites and the person depositing the refuse shall be liable to pay the tariff charge therefor.

(2) Builder's refuse may, with the prior written consent of the Council, be deposited at a place other than the Council's disposal sites for the purpose of reclamation of land.

(3) Any consent given in terms of subsection (2) shall be subject to such conditions as the Council may deem necessary having regard to -

- (a) the safety of the public;
- (b) the environment of the proposed disposal site;
- (c) the suitability of the area including the drainage thereof;
- (d) the expected manner and times of depositing of refuse at the site;
- (e) the levelling of the site;
- (f) the control of dust; and
- (g) other relevant factors.

Section 11 : Special measures for collection, storage and disposal

(1) If the Council is of the opinion that, in order to avoid any health hazard or nuisance arising, special measures for the collection, temporary storage or disposal of any refuse should be adopted or that such refuse should be specially treated to render the same inoffensive or non-injurious to health, the Council must serve written notice on the occupier of any premises or in the case of vacant land, the owner thereof, to carry out any of the aforesaid measures within a reasonable time.

(2) The owner or occupier of any premises shall, on being served with a notice in terms of subsection (1)-

- (a) either remove any refuse which is likely to be offensive or injurious to health from such premises and dispose thereof in such a manner as may be stipulated in such notice; or
- (b) when permitted by the terms of such notice, treat any refuse on such premises so as to render it innocuous and inoffensive and so as to prevent infestation thereof by flies, mosquitoes, rats and other vermin.

(3) Any owner or occupier who refuses to carry out the measures specified in a notice given under this section or who fails to comply therewith within the time specified in the notice shall be guilty of an offence and the Council may arrange for such measures to be carried out at the expense of the person on whom the notice was served.

Section 12 : Removal of refuse or offensive matter along the street

12. (1) Any person removing or conveying any refuse or other offensive matter or any builder's refuse shall remove the same by means of a properly constructed and enclosed vehicle and in such manner as will prevent any nuisance arising from such conveyance or the escape of the contents therefrom.

(2) The Council may serve a written notice upon any person restricting or stipulating the means to be adopted and specifying the times during which refuse may be conveyed through or along any street or public place if the Council is of the opinion that the conveyance of such refuse is likely to be objectionable or give rise to nuisance. Any person who fails to comply with the requirements of subsection (1) of this section or with any notice given under this subsection shall be guilty of an offence.

Section 13 : Notification of generation of special industrial refuse

(1) The occupier of premises on which special industrial refuse is generated shall inform the Council in writing of the composition thereof, the quantity generated, how it is stored, and how and when and by whom and to which place, it will be removed.

(2) If so required by the Council the notification referred to in subsection (1) shall be verified by an analysis certified by a duly qualified industrial chemist.

(3) Any officer or servant of the Council and any other person duly authorised by the Council may enter premises at any reasonable time to ascertain whether special industrial refuse is generated on such premises and may take samples and test any refuse found on the premises to ascertain its composition.

Section 14 : Storing of special industrial refuse

(1) The occupier of premises on which special industrial refuse is generated shall ensure that the special industrial refuse generated on the premises is kept and stored thereon in terms of subsection (2) until it is removed from the premises in terms of section 15.

(2) Special industrial refuse stored on premises shall be stored in such a manner that it cannot become a nuisance or pollute the environment.

(3) The Council may in writing order the person referred to in section 14(1) to remove special industrial refuse within a reasonable time and, if thereafter such refuse is not removed within such time, the Council may by itself or through a contractor remove it at the expense of such person or the owner, as the case may be.

Section 15 : Removal of special industrial refuse

15. No person shall remove special industrial refuse from the premises on which it was generated unless such refuse is lawfully and properly removed to a disposal site by a competent person with the necessary equipment to remove the special industrial refuse.

Section 16 : Liquid waste

(1) No person shall deliver to or discharge at a disposal site any liquid refuse or cause the same to be done, except with the prior written permission of the Council and in accordance with such conditions as may be imposed by it.

(2) Any costs incurred by the Council in remedying damage or in abating any nuisance caused by the discharge of liquid refuse at a disposal site in contravention of the provision of these by-laws or of any condition imposed and the amount of any legal liability or costs incurred by the Council in respect of any claim arising from any such nuisance shall be borne by and be recoverable from the owner of such refuse.

Section 17 : Conduct at disposal site

(1) Every person who, for the purpose of disposing of refuse enters a disposal facility controlled by the Council, shall -

- (a) enter the disposal facility only at an authorised access point indicated as such;
- (b) present the refuse for weighing in the manner required by the Council's official having authority at such site;
- (c) give to such official all the particulars required in regard to the composition of the refuse;
- (d) follow all instructions given to him in regard to access to the actual disposal point, the place where and the manner in which the should be deposited; and
- (e) provide the said official with full information as to the person who is liable to pay the tariff charge for the refuse deposited to enable an account to be rendered to him, provided that the provisions of paragraphs (b), (c) and (e) above shall not apply to a person who, in terms of section 9(3). has entered a disposal site for the purpose of disposing of garden refuse.

(2) No person shall bring any intoxicating liquor onto a disposal site controlled by the Council.

(3) No person shall enter a disposal site controlled by the Council for any purpose other than the disposal of refuse in terms of these by-laws and then only at such times and between such hours as the Council may from time to time determine.

Section 18: Ownership of refuse

All refuse removed by the Council and all refuse on disposal sites controlled by the Council shall be the property of the Council and no person who is not duly authorised by the Council to do so shall remove or interfere therewith.

Section 19: Offences and penalties

(1) Any person who -

- (a) contravenes or fails to comply with any provision of these by-laws; or
- (b) contravenes or fails to comply with any conditions imposed upon the granting of any application, consent, approval, concession, relaxation, permit or authority in terms of these by-laws; or
- (c) fails to comply with the terms of any notice served upon or given to him in terms of these by-laws,

shall be guilty of an offence and liable for a fine not exceeding R30 000 or imprisonment for a period not exceeding two years or for both such fine and imprisonment.

21. Regulations

The municipality may make regulations not inconsistent with this by-law, prescribing -

- (a) any matter that may or must be prescribed in terms of this by-law; and
- (b) any matter that may facilitate the application of this by-law.

22. Repeal of by-laws

Any by-laws relating to Property encroachment adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

23. Short title and commencement

This by-law is called the Refuse Removal and Disposal By-law, 2008, and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.