



GOVERNMENT GAZETTE

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General Notice

WALVIS BAY MUNICIPALITY

No. 151 2011

SOLID AND HAZARDOUS WASTE MANAGEMENT REGULATIONS: LOCAL AUTHORITIES ACT, 1992

The Council of the Municipality of Walvis Bay, has after consultation with the Minister of Regional and Local Government, Housing and Rural Development, under section 94(1) of the Local Authorities Act, 1992 (Act No. 23 of 1992), made the regulations set out in the Schedule.

D.J. KLAZEN
CHAIRPERSON
BY ORDER OF THE COUNCIL

Walvis Bay, 29 April 2011

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PART 1
PRELIMINARY PROVISIONS

Definitions

1. In these regulations a word or an expression to which a meaning has been assigned in the Act has that meaning, and unless the context otherwise indicates -

“approved” means approved by the Council;

“authorised official” means a staff member of the Council authorised by it to implement, administer and enforce the provisions of these regulations;

“bio-hazardous waste symbol” means the labelling for hazardous substances which must be done in accordance with the approved South African National Standards (SANS) Code or other standard approved in terms of section 94B of the Act;

“builders’ rubble” means waste generated by the demolition of buildings and structures, excavation of land or other building activities conducted on premises;

“bulky waste” means waste which by virtue of its mass, volume, shape, size, quantity or cannot be stored in an approved waste container or which cannot be removed or disposed of during the municipal service;

“bulk waste container” means a container with a storage capacity in excess of 5 m³, which may be used for the removal of bulky waste, business waste, industrial waste, garden waste or builders’ rubble;

“business waste” means waste generated on premises used for non residential purposes, but does not include hazardous waste, health care risk waste, industrial waste, domestic waste, builders’ rubble, bulky waste, special domestic waste and garden waste;

“charge” means the tariff, charges, fees or any other monies determined by the Council in terms of section 30(1)(u) of the Act as payable to the Council for the municipal service;

“commercial service” means a service, excluding a municipal service, relating to or connected with the accumulating, collecting, managing, recycling, sorting, storing, treatment, transporting, disposing, buying or selling of waste or any matter of handling waste;

“Council” means the Council of the Municipality of Walvis Bay;

“damage to the environment” means any pollution, degradation or harm to the environment, whether visible or not;

“domestic waste” means waste generated on premises used solely for residential purposes, or as public or private facilities and institutions, but does not include garden waste, bulky waste, business waste, builder’s waste, industrial waste, hazardous waste and health care risk waste;

“dump” means the placing of waste anywhere, other than at a place approved by the Council or authorised by law, including the depositing, discharge, spilling or release of waste in or at a place not approved by the Council or authorised by law, but does not include litter;

“garden waste” means waste generated as a result of normal gardening activities and includes plants, leaves, grass cuttings, flowers, weeds, hedges, other small and light organic matter, but does not include branches, stems, trunks or roots having a diameter or length in excess of that stipulated by the Council from time to time;

“hazardous waste” waste containing, or contaminated by, poison, any corrosive agent, any flammable substance having an open flash-point of less than 90 degree Celsius, an explosive, radioactive material, any chemical or any other waste that has the potential even in low concentrations to have a significant adverse effect on public health or the environment because of its inherent toxicological, chemical and physical characteristics;

“health care risk waste” means hazardous waste generated at any health care facility such as a hospital, clinic, laboratory, medical research institution, dental or medical practitioner or veterinarian;

“industrial waste” means waste generated as a result of business, commerce, trade, wholesale, retail, professional, manufacturing, maintenance, repair, fabricating, processing or dismantling activities, but does not include domestic waste, garden or bulky waste, builder’s waste, business waste, hazardous waste or health care risk waste;

“litter” means any object or matter which is discarded by a person in any place except in an approved waste container provided for that purpose or at any approved facility or place;

“municipal area” means the area of jurisdiction of the Council;

“municipal service” means a service provided by the Council for the collection and disposal of domestic waste and any other waste which the Council may from time to time determine;

“nuisance” includes premises or an activity on the premises or a part of it, which is in a state of construction or in such a condition or so situated or so dirty or verminous to be offensive, injurious or dangerous to health or the environment or emits waste of an intolerable or unacceptable standard to the nature, human and animal life;

“occupier” includes -

“occupier” means any person who -

- (a) actually occupies or uses any premises without regard to the title under which he or she occupies;
- (b) is legally entitled to occupy or use any premises; or
- (c) controls or manages any premises, and includes the agent or representative of any such person when he or she is absent or his or her whereabouts are unknown;

“owner” includes -

- (a) any person in whom from time to time is vested the legal title to the premises;
- (b) any person receiving the rent or profit of any premises from any tenant, lodger or occupier thereof, or who would receive such rent or profits if such premises were leased, whether for his or her own account or as agent for any other person entitled thereto;
- (c) in the case where the person in whom the legal title to premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (d) in the case of premises for which a registered long lease of 10 years or longer has been entered into, the lessee;
- (e) in relation to -
 - (i) land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1971 (Act No. 66 of 1971), 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 the sectional title deed, and includes the lawfully appointed agent of such a person;

“plastic liner” means an approved plastic bag for the storage, depositing, collection and disposal of waste;

“premises” means an erf or any other portion of land, including any building on it or any other structure used for the purposes of business, commerce, trade, industry, agriculture, residence, recreation, religion, education, welfare or any other purposes and the infrastructure used in connection with it;

“reasonable hours” means hours between 7:00 and 18:00 during weekdays and between 8:00 and 13:00 on Saturdays;

“recyclable waste” means waste which has been separated from the waste stream and set aside for purposes of recovery, reuse or recycling;

“special domestic waste” means domestic waste not defined in these regulations, including carcasses of dead animals;

“special industrial waste” means waste that consist of liquid or sludge produced by manufacturing process or the pre-treatment for disposal purposes of any industrial waste, which may not be discharged into a drain or sewer;

“the Act” means the Local Authorities Act, 1992 (Act No. 23 of 1992);

“town planning scheme” means the Walvis Bay town planning scheme prepared in terms of the Town Planning Ordinance, 1954 (Ordinance No. 18 of 1954);

“waste container” means an approved waste container;

“waste” means a substance or matter whether solid, liquid or any combination of it, including -

- (a) any undesirable, rejected, abandoned or superfluous matter, material, residue of any process or activity, product, by-product;
- (b) any matter which is regarded as useless and unwanted;
- (c) any matter which has been discarded, abandoned, accumulated or stored for the purposes of discarding, abandoning, processing, recovery, reuse, recycling or extracting a usable product from such matter; or
- (d) products that may contain or generate a gaseous component,

which may originate from residential, gardening, business, commercial, trade, industrial, educational, agricultural, medical, building and demolition activities, and any other activities, including industrial waste, hazardous waste and health care risk waste.

“waste disposal facility” means a an approved facility or place which receives waste for treatment or disposal, and which is operated and controlled by the Council or approved by the Council.

PART 2 DOMESTIC WASTE

Responsibility for domestic waste

2. (1) The Council is responsible for the collection and disposal of domestic waste from premises, at a charge.

(2) The owner or occupier of premises on which domestic waste is generated, may not use any other service, except the municipal service, for the collection and disposal of domestic waste generated on such premises.

(3) Subject to the provisions of these regulations and any other applicable law the Council may enter into an agreement with any person or company for the collection and disposal of domestic waste or any matter related to it, on the Council’s behalf and subject to any conditions or limitations the Council may impose.

Provision of waste containers

3. (1) The Council is responsible for providing one waste container for each residential premises, for the depositing and storage of domestic waste generated on the premises.

(2) If there are more than one residential premises, such as flats, or more than one municipal account holders on a premises, the Council may provide additional waste containers to such premises.

(3) If the Council is unable to provide waste containers due to unavailability, the owner or occupier premises on which domestic waste is generated, may use a plastic liner for the depositing and storage of waste until such time as the waste container are delivered to the premises.

(4) If the owner or occupier of premises on which domestic waste is generated require more than one waste container, the owner or occupier must at own cost provide such additional number of waste containers and is responsible for the payment of the charge for the municipal service in respect of such additional containers.

(5) Subregulation (4) does not apply where it is the Council’s responsibility to provide additional waste containers as contemplated in subregulation (2).

(6) If the owner or occupier of premises on which domestic waste is generated purchases additional waste containers, in terms of subregulation (4), the owner or occupier must inform the Council in writing.

(7) Liability for the payment of the applicable charge for the waste containers or other waste containers only takes effect on the date of delivery of the containers on the premises and the Council's records reflect such delivery.

(8) The provisions of this regulation apply with necessary changes to owners or occupiers using privately owned waste containers for the purposes of depositing and storage of domestic waste.

Waste container liners

4. (1) In order to facilitate the collection and disposal of domestic waste that may cause nuisance by nature of its odours, dust, attraction of vermin or disease vectors, the Council may require that, in certain circumstances, such waste be placed in a waste container liner before being placed in the waste container.

(2) The owner or occupier of premises on which domestic waste is generated must ensure that, any sharp objects that are to be disposed of and that are likely to penetrate the waste container or plastic liner, are wrapped in a suitable material or placed in a non-penetrable container, before being placed in the waste container.

Placing of waste containers

5. (1) The Council determines and alters the days, times and frequencies for the rendering of the municipal service in respect of domestic waste.

(2) The owner or occupier of premises must place the waste container or plastic liner used for the depositing and storage of domestic waste, outside the fence or boundary of the premises, before 07h00 on the day on which the waste is collected in that particular area.

(3) If the authorised official is unable to collect waste from the place referred to in subregulation (2), the authorised official may, having regard to the avoidance of nuisance and the convenience of collecting of waste, indicate a position within or outside the premises where the waste container or plastic liner must be placed for collection, and that container or liner must be placed in the manner so indicated and for such periods as the authorised official may require.

(4) The owner or occupier of residential premises must return the waste container to the premises not later than nightfall of the same day that domestic waste has been collected.

(5) The owner or occupier of residential premises must ensure that the pavement, verge or adjoining land is swept or kept free of any domestic waste that has not been collected by the Council.

Use and care of waste containers

6. (1) The owner or occupier of premises on which domestic waste is generated must ensure that -

- (a) domestic waste generated on premises is kept in the approved waste container, but the provisions of this paragraph does not prevent an owner or occupier who has obtained the Council's prior written consent, from selling or otherwise disposing of corrugated cardboard, paper, glass, cans or other material for recycling;

- (b) only domestic waste is deposited and stored in a waste container or plastic liner approved for the depositing or storing of domestic waste,
- (c) that the waste container approved for the depositing or storing of domestic waste, is not used for any purpose other than for the depositing and storage of domestic waste;
- (d) hot ash, broken glass, sharp or dangerous objects, sand, stones, rocks, builders' rubble or any matter or material which may cause injury to any person, including an authorised official, while carrying out his or her duties in terms of these regulations, or which may cause damage to a waste container or plastic liner, used for the depositing and storage of domestic waste, or compaction equipment, are not deposited or stored in a waste container or plastic liner;
- (e) material, including any liquid, which by reason of its mass or other characteristics, is likely to cause the handling or carrying of a waste container or plastic liner, used for the depositing and storage of domestic waste, to be difficult for an authorised official, are not deposited or stored in a waste container or plastic liner;
- (f) the waste container, used for the depositing and storage of domestic waste, is maintained and kept in good order and repair and in a clean and hygienic condition;
- (g) the waste container, used for the depositing and storage of domestic waste, is kept securely closed or covered except when waste is being deposited in it or removed from it;
- (h) the waste container, used for the depositing and storage of domestic waste, is not filled to such an extent that the lid or cover cannot close properly; and
- (i) the contents of the waste container or plastic liner, used for the depositing and storage of domestic waste, are secured against damage and that scavenging by animals does not occur.

(2) A person may not burn or cause or allow to be burnt any waste, inside a waste container or at any other place on the premises, except in an approved incinerator or as approved by an authorised official.

(3) The owner or occupier of premises on which domestic waste is generated and to which waste containers have been delivered in terms of this Part, is liable for the loss of the containers or damage caused to the containers, except for the loss or damage caused by an authorised official.

PART 3 BUSINESS WASTE

Responsibility for business waste

7. (1) Business waste may only be collected and disposed of by the Council or a person or company authorised by the Council and subject to any conditions or limitations the Council may impose from time to time.

(2) Subject to subregulation 3, the owner or occupier of premises on which business waste is generated must make use of the municipal service for the collection and disposal of business waste, which service is provided at a charge.

(3) The owner or occupier of premises on which business waste is generated may use the services of a person or company authorised by the Council, for the collection and disposal of business waste.

(4) If the owner or occupier of premises on which business waste is generated, is making use of the services of a person or company, as contemplated in subregulation (3), for the collection and disposal of business waste, the provisions of regulation 15(2) and (3) apply in respect of such service.

(5) The owner and occupier of premises on which business waste is generated, and who is not making use of the services of the Council for the collection and disposal of business waste, must inform the Council of that fact and must ensure that business waste is collected and disposed of at an approved waste disposal facility and at the frequency determined by the Council.

(6) If the owner or occupier of premises on which business waste is generated fails to ensure that business waste is collected and disposed of as contemplated in subregulation (5), the Council may remove such waste at the cost of the owner or occupier.

(7) Subject to the provisions of these regulations and any other applicable law the Council may enter into an agreement with any person for the provision of the service for storage, collection and disposal of business waste or any matter related to it, on the Council's behalf and subject to any conditions or limitations the Council may impose.

Notice to Council

8. (1) The owner or occupier of premises on which business waste is generated, must in writing apply to the Council for the collection and disposal of business waste from such premises.

(2) If premises are used or are to be used for any non-residential purposes or where the volume of waste generated is difficult to determine, an authorised official must determine the volume of waste generated or to be generated and the volume is used to determine the disposal charge.

(3) Council's service or the charge for the service in respect of business waste continues, unless the owner or occupier of premises on which business waste is generated, informs the Council in writing of the suspension of activities on the premises or the property or business is transferred to another person, and the owner or occupier is liable for payment of the charge in respect of the service until the date of receipt of such notice by the Council.

Provision of waste containers

9. (1) After notification in terms of regulation 8, the Council, after investigation and after determining the quantity of waste generated or to be generated on the premises referred in that regulation, determines the number and type of waste containers required on such premises.

(2) The Council may on the request of the owner or occupier of premises on which business waste is generated, provide waste containers, for the depositing and storage of business waste, at a charge.

(3) If the owner or occupier of premises on which business waste is generated, does not request waste containers from the Council as contemplated in subregulation (2), the owner or occupier must provide the number and type of waste containers determined by the Council.

(4) The owner or occupier of premises on which business waste is generated, may purchase additional waste containers for the depositing and storage of business waste generated on such premises and must inform the Council in writing of such purchase.

(5) Liability to pay the applicable charge for waste containers or other waste containers only takes effect on the date of delivery of the containers on the premises and the Council's records reflects such delivery.

(6) The provisions of this regulation apply with necessary changes to owners or occupiers of business premises using privately owned containers for the depositing and storage of business waste.

(7) The Council may at any time after the delivery of waste containers in terms of this regulation, remove some of the waste containers it has provided, or provide additional waste containers, at the owner's or occupier's expense as the case may be, if in its opinion, a greater or lesser number of containers are required on the premises.

(8) The Council may determine and deliver bulk waste containers to premises on which business waste is generated, if, having regard to the quantity of waste generated on the premises concerned, considered -

- (a) the suitability of such waste being stored in waste containers;
- (b) the accessibility and adequacy of the storage space provided by the owner or occupier of the premises in terms of regulation 11, and
- (c) the appropriateness of bulk waste containers as compared to waste containers for the storage of the waste.

(9) The provisions subregulation (1), (2), (3) and (7) apply with necessary changes to bulk waste containers delivered to premises in terms of subregulation (8).

(10) The owner or occupier of premises on which business waste is generated, must keep the contents of the waste container approved for the depositing and storage of business waste or the approved bulk waste container covered at all times.

(11) The Council is the owner of waste containers and the bulk waste containers provided by it in terms of this regulation.

(12) The owner or occupier of premises on which business waste is generated, and who is neglecting or refusing to provide containers as contemplated in subregulation (2) or (3), or who fails to obtain the required containers, within fourteen calendar days of receipt of a notice to do so from an authorised official, commits an offence.

Waste container liners

10. (1) In order to facilitate the collection and disposal of business waste that may cause nuisance by nature of its odours, dust, attraction of vermin or disease vectors, the Council may require that in certain circumstance, such waste be placed in a waste container liner before being placed in the waste container.

(2) The owner or occupier of premises on which business waste is generated, must ensure that any sharp objects that are to be disposed of and that is likely to penetrate the waste container or liner, is wrapped in a suitable material or placed in a non-penetrable container, before being placed in the waste container.

Storage of business waste

11. (1) The owner or occupier of premises on which business waste is generated, must provide an approved space of adequate size and other facilities considered necessary by the Council for the storage of waste containers approved for the depositing and storage of business waste.

(2) The space provided in terms of subregulation (1) must be so located as to permit convenient access to and collection of waste from such space, for the authorised officials and Council's waste collection and disposal vehicles.

(3) If an authorised official is unable to collect waste containers from the space provided in subregulation (1), the authorised official may, having regard to the avoidance of nuisance and the convenience of collecting of waste, indicate a position within or outside the premises for the placing of waste containers for collecting of waste, and the waste container must be placed in the indicated position at such times and periods as the authorised official may require.

(4) The owner or occupier of premises on which business waste is generated, must place the waste container approved for the depositing and storage of business waste, outside the fence or boundary of the premises, or at the approved space contemplated in subregulation (1) or (3), before 07h00 on the day on which business waste is collected in the particular area.

Use and care of waste containers

12. (1) The owner or occupier of premises on which business waste is generated, must ensure that -

- (a) business waste generated on premises is kept in the approved waste container, but the provisions of this paragraph does not prevent an owner or occupier who has obtained the Council's prior written consent, from selling or otherwise disposing of corrugated cardboard, paper, glass, cans or other material for recycling;
- (b) only business waste is deposited or stored in a waste container approved for the depositing and storage of business waste;
- (c) the waste container approved for the depositing and storage of business waste is not used for any purpose other than for the depositing and storage of business waste;
- (d) hot ash, broken glass, sharp or dangerous objects, sand, stones, rocks, builders' rubble or any matter or material which may cause injury to any person, including an authorised official, while carrying out his or her duties in terms of these regulations, or which may cause damage to a waste container, used for the depositing and storage of business waste, or compaction equipment, are not deposited or stored in a waste container;
- (e) material, including any liquid, which by reason of its mass or other characteristics, which may cause the handling or carrying of the waste container, used for the depositing and storage of business waste, to be difficult for an authorised official are not deposited or stored in a waste container;
- (f) the waste container, used for the depositing and storage of business waste, is maintained and kept in good order and repair and in a clean and hygienic condition;
- (g) the waste container used for the depositing and storage of business waste, is kept securely closed or covered except when waste is being deposited in it or removed from it;
- (h) the waste container, used for the depositing and storage of business waste, is not filled to such an extent that the lid or cover cannot close properly; and
- (i) the contents of the waste container, used for the depositing and storage of business waste, are secured against damage and that scavenging by animals does not occur.

(2) A person may not burn or cause or allow to be burnt any waste, inside a waste container, used for the depositing and storage of business waste, or at any other place on the premises, except in an approved incinerator or as approved by an authorised official.

(3) The owner or occupier of premises to which waste containers have been delivered in terms of this Part, is liable for the loss of the containers or damage caused to the containers, except for the loss or damage caused by an authorised official.

(4) The owner or occupier of premises must ensure that waste containers used for the depositing and storage of business waste, are emptied on a regular basis or at such frequency as determined by the Council.

(5) If bulk waste containers have been delivered to premises in terms of regulation 9(8), the owner or occupier of the premises must, 48 hours before the container is likely to be filled to capacity, inform the authorised official of that fact.

Provision of waste containers in public places

13. (1) The Council is responsible for placing at strategic places within the business areas defined by respective zoning stated in the town planning scheme or other public places suitable containers for the disposal of waste generated by the public in those areas and the collection and disposal of such waste must be done in accordance with these regulations.

(2) No waste, except the waste contemplated in subregulation (1), must be deposited in the containers referred to in that subregulation, and the containers may not be tampered with, be vandalised or be used for any other purpose, unless the Council determines otherwise.

PART 4 INDUSTRIAL WASTE

Application of regulations to industrial waste

14. The provisions of regulations 7 to 12, apply with necessary changes to industrial waste.

Collection and disposal of industrial waste by private persons

15. (1) The owner or occupier of premises on which industrial waste is generated may use the services of a person or company for the collection and disposal of industrial waste, if the owner or occupier notifies the Council in writing of the intention to do so.

(2) If Council's services are not used for the collection and disposal of industrial waste the Council may determine conditions to ensure -

- (a) that waste containers used for the depositing and storage of industrial waste are not kept in a public place, unless otherwise determined by the Council;
- (b) the adequacy of equipment which is intended to be used;
- (c) the containment of the industrial waste in transit;
- (d) that industrial waste is disposed of at an approved waste disposal facility;
- (e) that services rendered by the person or company contemplated in subregulation (1), are in respect of industrial waste and business waste only;

- (f) the owner or occupier of premises on which industrial waste is generated, informs the Council on an annual basis, of the composition and quantity of industrial waste collected and disposed of; and
- (g) that industrial waste generated on premises is collected and disposed of on a regular basis or at such intervals as determined by the Council.

(3) If the person or company contemplated in subregulation (1) fails to comply with or contravenes a condition mentioned in subregulation (2), the Council may take remedial action or cause remedial action to be taken to rectify the non compliance at the cost of the owner or occupier of the premises concerned.

PART 5

GARDEN, SPECIAL DOMESTIC, BULKY WASTE AND BUILDERS' RUBBLE

Responsibility for garden, special domestic, bulky waste and builders' rubble

16. (1) The Council is not responsible for the collection and disposal of garden, special domestic, bulky waste and builders' rubble, unless determined otherwise.

(2) A person may dispose of or may use the services of another person or company for the collection and disposal of garden, special domestic, bulky waste and builders' rubble and must ensure compliance with the applicable laws dealing with such waste.

Collection and disposal of garden, special domestic, bulky waste and builders' rubble

17. (1) Garden, special domestic, bulky waste and builders' rubble may only be disposed of at a waste disposal facility approved by the Council for such purposes.

(2) Garden, special domestic, bulky waste and builders' rubble may, with the written consent and subject to conditions the Council may impose, be disposed of at an approved place, other than at a waste disposal facility.

(3) Until such time as garden, special domestic, bulky waste and builders' rubble is collected and disposed of, the owner or occupier of premises on which such waste is generated must ensure that inconvenience, nuisance, harm to human health or damage to the environment is not caused by such waste.

Council's special service

18. (1) At the request of the owner or occupier of premises on which garden, special domestic, bulky waste and builders' rubble is generated, the Council may, at a charge, provide bulk waste containers for the storage of such waste.

(2) At the request of the owner or occupier of premises on which garden, special domestic, bulky waste and builders' rubble is generated, the Council may, at a charge, provide a service for collection and disposal of such waste.

PART 6

SPECIAL INDUSTRIAL, HAZARDOUS AND HEALTH CARE RISK WASTE

Generation of special industrial, hazardous and health care risk waste

19. (1) A person carrying on an activity that generates special industrial, hazardous or health care risk waste, must notify the Council within seven days of such waste having been

generated, of the composition, the waste generated, the quantity generated, method of storage, the proposed duration of storage, and the manner in which it is to be collected and disposed of.

(2) If special industrial, hazardous or health care risk waste is being generated as a result of activities which started before the commencement of these regulations the person who generates such waste must notify the Council, as contemplated in subregulation (1), within 90 days of the commencement of these regulations or such other period allowed by the Council.

(3) If required by the Council, the notification referred to in subregulation (1) or (2), must be substantiated by an analysis of matters referred to in subregulation (1), which analysis must be certified by a person qualified and accepted by the Council as suitable to provide such certification.

(4) An authorised official may in accordance section 91 of the Act and regulation 31 enter premises during normal office hours to establish whether special industrial, hazardous or health care risk waste is generated on the premises.

(5) If the person generating special industrial, hazardous or health care risk waste is unable to provide the authorised official with satisfactory details relating to the composition of waste, the authorised official may, in accordance with section 91 of the Act and regulation 31, take samples and test waste found on the premises to establish its composition, at the cost of such person.

(6) The person who is required to notify the Council in terms of subregulation (1) or (2), must notify the Council of changes in the composition and quantity of the special industrial, hazardous or health care risk waste, occurring after such notification.

Storage of special industrial, hazardous and health care risk waste

20. (1) A person carrying on an activity that generates special industrial, hazardous or health care risk waste, must ensure that such waste is kept and stored on the premises on which it is generated until it is collected from the premises.

(2) Special industrial, hazardous or health care risk waste stored on premises must be stored in a manner that it does not create a nuisance or cause harm to human health or damage the environment, and in accordance with the requirements of the applicable laws relating to buildings.

(3) If special industrial, hazardous or health care risk waste is not stored in accordance with subregulation (2), the Council may order the person carrying on an activity generating such waste to remove such waste within 48 hours.

(4) If special industrial, hazardous or health care risk waste is not collected within the time stipulated in subregulation (3) an authorised official may collect such waste, at the cost of the person contemplated in that subregulation.

(5) Special industrial, hazardous or health care risk waste must be stored in an approved container and the container must be kept in an approved storage area for a period not exceeding the maximum period to be stipulated by the Council, before collection.

(6) The containers approved for health care risk waste must comply with the following minimum requirements:

- (a) all infectious waste must be placed at the point of generation in an approved waste container;
- (b) the container used for the storage of health care risk waste sharps must be constructed of such a material that the object cannot pierce the container, and the container must be fitted with a safe and hygienic lid which must be sealed after use;

- (c) the waste container used for the storage of contagious materials, other than for the storage of waste stated in paragraph (b), must be manufactured from a material which prevents the contents from leaking out, and the container has to be equipped with a safe and hygienic lid, and be sealed after utilisation; and
- d) all containers must be colour coded in the approved manner and be clearly marked with the bio-hazardous waste symbol.

Collection and disposal of special industrial, hazardous and health care risk waste

21. (1) A person may not, without the Council's written approval, collect special industrial, hazardous or health care risk from the premises on which it is generated.

(2) Special industrial, hazardous or health care risk waste must only be transported in accordance with the requirements specified in the applicable transport laws, with a focus on the type of vehicle, its markings, the way it is manufactured, safety procedures and hygiene and documentation regarding the origin, transport and disposal of such waste.

(3) The person carrying on an activity that generates special industrial, hazardous or health care risk waste, must inform the Council, at intervals as the Council may determine, regarding the identity of the person who collected the waste, the date of collection, the quantity and the composition of the special industrial, hazardous or health care risk waste collected.

(4) Special industrial, hazardous or health care risk waste must on the request of an authorised official be accompanied by a certificate of an approved laboratory or any other document to ascertain the composition of the waste to the satisfaction of the authorised official.

(5) A person may not dispose of special industrial, hazardous or health care risk waste without the prior arrangement with an authorised official, and such waste must be presented to an approved facility for disposal or treatment.

(6) The Council may require that hazardous waste to be pre-treated on the premises on which it has been generated, to facilitate the better handling and removal of such waste.

(7) Despite this regulation and regulations 19 and 20, the generators of special industrial, hazardous and health care risk waste, must comply with the laws applicable to the notification, collection and disposal of such waste.

(8) If a person is convicted of contravening the provisions of this regulation and regulations 19 and 20, such person must in addition to a penalty to which the person is liable, dispose of the waste as directed by the Council or the Council may alternatively instruct an authorised official to dispose of such waste and the Council may recover the costs from such person.

PART 7 WASTE DISPOSAL FACILITIES

Waste disposal facilities

22. (1) Waste must only be deposited at an approved waste disposal facility.

(2) Any person who for the purpose of disposing of waste enters a waste disposal facility controlled by the Council, must -

- (a) enter the facility at an authorised access point;

- (b) give the Council all the particulars required with regard to the composition of the waste; and
 - (c) follow all instructions with regard to access to the actual disposal point, the place where and the manner in which the waste must be deposited.
- (3) A person may not bring any liquor to a waste disposal facility controlled by the Council.
- (4) A person may not enter a waste disposal facility controlled by the Council for any purpose other than for the disposal of waste, and only at times and hours as the Council may from time to time determine and display at the authorised access point to the waste disposal facility.
- (5) A vehicle driver entering the waste disposal facility must report at the weighbridge where the vehicle with load must be weighed and the type of waste entering the facility must be recorded.
- (6) Entry of all waste generated in municipal area is free of charge, but an entrance charge, as determined from time to time by the Council, is payable for waste generated outside the municipal area.
- (7) A waste disposal facility is provided by the Council at the entrance of the waste disposal facility offices for vehicles with a carrying capacity of less than 1500 kilogram and where smaller volumes of waste can be separated for recycling purposes and the facility may be used free of charge.

Responsibilities of Council at waste disposal facilities

23. (1) The Council is responsible for the effective design, construction, operation, management and monitoring of waste disposal facilities in accordance with the provisions of applicable environmental laws, by among others, enforcing -

- (a) the controlled entry of both vehicles and persons to the facility and the prevention of illegal activities such as scavenging, cultivation on drainage structures and illegal burning of waste, taking place on the facility ;
- (b) the control and monitoring of environmental pollution due to illegal burning of waste, ground water pollution, leachate, windblown waste, dust emission and other parameters as may emanate from the operation of such facility;
- (c) that the access road to the facility is at all times in an acceptable condition to allow for the free flow of traffic; and
- (d) that only waste approved for disposal in accordance with these regulations is disposed of at a particular facility.

(2) Despite subregulation (1), Council may on a tender basis enter into an agreement with a private person or company to operate a waste disposal facility on behalf of the Council and in accordance with the conditions as Council may determine in the tender documents and as contained further in a written memorandum of agreement between the Council and the successful lessee, but the overall responsibility for the facility as a whole remains with the Council.

Ownership of waste on waste disposal facilities

24. (1) All waste on waste disposal facilities controlled by the Council become the property of the Council once it is disposed of at the facility and a person may not remove, claim or interfere with such waste, unless authorised in writing by the Council to do so.

(2) Recycling of waste may not be undertaken at waste disposal facilities controlled by the Council, without the written approval of the Council.

(3) Recycling stalls provided by the Council at the waste disposal facilities may be leased out on a tender basis to interested parties in accordance with the conditions determined by the Council and outlined in a written memorandum of agreement between the Council and the lessee.

(4) Waste reclaimed by a recycling person or company registered with the Council become the property of that person or company.

PART 8
LITTERING, DUMPING AND ANCILLARY MATTERS

Prohibition of littering

25. A person may not -

- (a) cause litter;
- (b) sweep any waste into a gutter, onto a road reserve or onto any other public place;
- (c) disturb anything in, or remove anything from any waste container which has been placed for the purposes of collecting litter in such a manner as to cause the contents of such container to spill or fall onto the ground around it; and
- (d) allow any person under his or her control to do any of the acts contemplated in paragraphs (a), (b) or (c).

(2) Despite subregulation (1), the owner or occupier of any privately owned premises to which the public has lawful access, must within a reasonable time after any litter has been discarded, dumped or left behind, remove such litter or cause it to be removed.

Prohibition of dumping

26. (1) A person may not dump or deposit waste on any premises unless authorised for that purpose in writing by the Council and subject to any conditions which may be imposed by the Council.

(2) If the provisions of subregulation (1) are contravened, the Council may by written notice in terms of subregulation (4), direct any or all of the following persons:

- (a) the person who committed, or who directly or indirectly caused or permitted the contravention;
- (b) the generator of the waste, whether or not the generator is responsible for the contravention;
- (c) the owner or occupier where the contravention took place, if any of the persons referred to in paragraphs (a) and (b) fail to take the steps set out in subregulation (3);

- (d) the person in control of, or any person who has or had, at the time of the contravention, a right to use, the premises where the contravention took place, if that person fails to take the steps set out in subregulation (3);
- (e) any person who negligently failed to prevent the contravention from taking place,

to stop the contravention in a specified time, or to prevent a further contravention or the continuation of the contravention, and to take steps the Council considers necessary to clean up or remove the waste, to rehabilitate the affected facets of the environment and to ensure that the waste, and any contaminated material which cannot be cleaned or rehabilitated, is disposed of lawfully.

(3) A owner or occupier of premises may not use or permit the use of the premises for unlawful dumping of waste and must take reasonable steps to prevent the use of the premises for this purpose.

(4) The Council may issue notices -

- (a) for the purposes of giving directions in terms of subregulation (2);
- (b) for compelling persons to comply with their obligations under subregulation (3); and
- (c) for any other purpose under these regulations.

and may, in the notice, specify a reasonable time within which the directions given in the notice must be complied with.

(5) In addition, or as an alternative to, the steps set out in subregulation (2), or if a person fails to comply with directions given in a notice issued under subregulation (4), the Council may itself take steps it considers necessary to clean up or remove the waste, to rehabilitate the premises and affected facets of the environment at which the waste has been dumped and to ensure that the waste, and any contaminated material which cannot be cleaned or rehabilitated, is disposed of lawfully.

(6) If the Council acts in terms of subregulation (5), the Council may recover the costs of taking the steps contemplated in that subregulation from any of the persons listed in subregulation (2), who are jointly and severally liable for action taken.

Provisions in respect of abandoned things

27. (1) A person may not leave any article or allow any article under his or her control to be left at a place with the intention of abandoning it.

(2) Any article, which in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition of such article, is reasonably regarded by the Council as having been abandoned, may be removed and subject to subregulation (3) be disposed of by the Council as it may consider appropriate.

(3) If an article contemplated in subregulation (2) is in the opinion of the Council of significant financial value, the Council may not dispose of it unless it has published a notice in two local newspapers, describing the article, and stating the Council's intention to sell it for the best price reasonably obtainable, and inviting the owner, or person legally entitled to it, to claim the article within 30 days of the date of publication of the notice, but such article may only be sold if no valid claim is made during such period, and after the police was consulted prior to selling the article.

(4) The removal and disposal of a motor vehicle regarded to have been left behind or abandoned on a public road only takes place in accordance with the provisions of regulation 355 of

the Road Traffic and Transport Regulations, published in Government Notice No. 53 of 1 March 2001.

**PART 9
GENERAL PROVISIONS**

Establishment of a waste information system

28. The Council must establish and maintain a waste information system which records the manner in which waste is generated, managed, treated and disposed of within the municipal area.

Purpose of the waste information system

29. The purpose of the waste information system referred to in regulation 28 is for the Council to -

- (a) record data relating to the implementation of the local waste management plan;
- (b) record information held by the Council in relation to any of the matters referred to in regulation 28;
- (c) furnish information upon request or as required by law;
- (d) gather information and undertake strategic planning regarding potential and actual waste generators and service providers, and
- (e) provide information to waste generators, service providers and the local community in order to assist the Council to achieve the main objectives of these regulations.

Provision of information

30. (1) The Council may, subject to the provisions of any other law, require a waste generator or person involved in or associated with the provision of the municipal service or any commercial service within the municipal area, to furnish information to the Council which may reasonably be required for the information system, and which may concern -

- (a) significant sources of waste generation and the identification of the generators of waste;
- (b) quantities, classes and types of any waste generated and disposed;
- (c) management of waste by waste generators and waste contractors;
- (d) elimination, prevention, minimisation, reduction, reuse, recovery, recycling, handling, treatment and disposal of waste;
- (e) population and development profiles;
- (f) reports on progress in achieving waste management targets;
- (g) markets for waste by class of waste or category; and
- (h) any other information required by any law.

(2) The Council determines the manner, form, time and frequency of furnishing the information referred to in subregulation (1).

Access to premises

31. (1) An authorised official may, in accordance with section 91 of the Act, at all reasonable hours enter upon any premises, for the purpose of examining such premises to enable the authorised official to ascertain the compliance by the owner or occupier of the premises with the provisions of these regulations.

(2) A person may not refuse entry or obstruct an authorised official whilst such official is carrying out or attempting to carry out any duty or inspection which such official is authorised to carry out under these regulations.

Transportation of waste

32. A person may not -

- (a) operate a vehicle for the conveyance of any waste upon a public road unless the vehicle is suited for the type of waste being transported;
- (b) use a vehicle for the conveyance of waste unless maintained in a clean and sanitary condition;
- (c) transport loose waste on an open vehicle without a suitable tarpaulin, net or any suitable covering material, and
- (d) cause or permit any waste being transported in or through the municipal area to become detached, fall from the vehicle transporting it.

Notices, documents and orders

33. (1) Any notice, order or document required or permitted to be given by the Council in terms of these regulations is regarded to have been served in terms of section 93 of the Act -

- (a) if delivered to such person personally;
- (b) if despatched by registered post addressed to such person at his or her last known address which may be any such place or office as is referred to in paragraph (c) or his or her last known post office box number or private bag number or that of his or her employer or accredited agent, if any;
- (c) if left with some adult person apparently residing at or occupying or employed at his or her last known abode or office or place of business; or
- (d) in the case of a company-
 - (i) if delivered to the public officer of the company;
 - (ii) if left with some adult person apparently residing at or occupying or employed at its registered address;
 - (iii) if despatched by registered post addressed to the company or its public officer at its or his or her last known address, which may be any such office or place as is referred to in subparagraph (ii) or its or his or her last known post office box number or private bag number or that of its or his or her employer; or

- (iv) if transmitted by means of a facsimile transmission to the person concerned at the registered office of the company.

(2) Any notice order or document referred to in subregulation (1) which has been served, given or delivered in the manner contemplated in paragraph (b) or (d)(iii) of that subregulation is, unless the contrary is proved, regarded to have been received by the person to whom it was addressed at the time when it would, in the ordinary course of post have arrived at the place to which it was addressed.

Charges

34. (1) The Council may in respect of the municipal service, levy such charges, fees and monies as determined by Council by notice in the *Gazette* in terms of section 30(1)(u) of the Act.

(2) Charges determined for the municipal services become due and payable on the same date as the general assessment rate, water and sewer charges are due or as the Council may from time to time determine.

(3) Payment of charges must be made on or before the date on which it becomes due and payable.

(4) The fact that an account did not reach the user or waste generator does not exempt such user or waste generator from making payment on or before the due date.

(5) If the correctness of an account is disputed, payment of the account may not be postponed until after the due date pending the investigation and resolution of such dispute.

(6) Services rendered by the Council in respect of which a charge has been determined, may be amended by the Council if it has ascertained that an increase or decrease in such services is justified, or after receipt of a written notification from the owner or occupier of the premises to which the services are rendered, that the generation of industrial or business waste on the premises has ceased, or reduced in volume, and the Council is satisfied that a change in service is justified, and the charge is not to be reduced and remain payable until the Council is satisfied that an adjustment in service is justified.

(7) In addition to the normal charges, a disposal charge is payable by all non-domestic waste generators which charge is based on the volume of waste generated on the property and determined by the Council as set out in these regulations.

(8) Where any premises in respect of which a municipal service is rendered becomes vacant, the owner or occupier of such premises must immediately notify the Council in writing of such fact and, and if the owner or occupier fails to give such notice, the owner or occupier is until notice is given, liable for the charge for such services or the disposal charge.

(9) Despite the fact that the owner or occupier of premises on which business or industrial is generated, makes use of a person or company to collect and dispose of waste from the premises in terms of these regulations, the owner or occupier must pay the disposal charge.

(10) A person who fails to pay the charges for the municipal service commits an offence.

Offences and penalties

35. Any person who fails to comply with or contravenes these regulations commits an offence and is liable on conviction to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Exemptions

36. If, based on exceptional circumstances, the Council considers it desirable to authorise an exemption from any provision of these regulations, the Council may, subject to such conditions as it may impose, give an exemption if it is not in conflict with the provisions of the Act.

Repeal of regulations

- 37.** The Walvis Bay Municipality by law -
- (a) relating to the Removal of Refuse, No. P.N. 357/1983 of 24 June 1983 is repealed; and
 - (b) relating to Littering, Dumping and Ancillary Matters, No. P.N. 702/1993 of 26 November 1993 is repealed.
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