

has been served on him/her to cease committing such offence or after he/she has been convicted of such offence is guilty of a continuing offence.

- (3) Any person convicted of an offence under this by-law for which no penalty is expressly provided is liable to a fine not exceeding ten thousand rands or imprisonment for a period not exceed six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment and, in the case of a continuing offence, to an additional fine not exceeding two hundred rands or additional imprisonment for a period not exceeding ten days 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.

- (4) Every person committing a breach of the provisions of this by-law must recompense the municipality for any loss or damage suffered or sustained by it in consequence of such breach.

55. Repeal

The By-laws specified in the first column of Schedule 1 are hereby repealed to the extent set out in the second column of the Schedule.

SCHEDULE BY-LAWS REPEALED

TITLE OF BY-LAW	EXTENT OF REPEAL
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31492

CAPE AGULHAS MUNICIPALITY

By-Law Relating to the Fencing of Premises

To control the erection of fences

Arrangement of Sections

- Definitions
- Application of this by-law
- Erection of fences
- Dilapidated, defaced and unsightly fences
- Ownership of fences
- Delegation of powers and duties
- Offences and penalties

Schedule

1. Definitions

In this by-law, unless inconsistent with the context:—

“**the Act**” means the National Building Standards and Building Regulations Act, Act 103 of 1977;

“**Council**” means the municipal council of the municipality;

“**engineer**” means the person appointed by the municipality to act as engineer for the purpose of administering this by-law;

“**erect**” includes the making of alterations to a fence;

“**fence**” includes a boundary, garden or other freestanding wall;

“**municipality**” means the Municipality of Cape Agulhas;

kennis gestel is om sodanige misdryf te staak of nadat hy of sy skuldig bevind is aan sodanige misdryf, is skuldig aan 'n voortgesette misdryf.

- (3) Iemand wat skuldig bevind word aan 'n oortreding ingevolge hierdie verordening waarvoor geen straf uitdruklik bepaal word nie, is onderhewig aan 'n boete van nie meer as tien duisend rand nie of tronkstraf vir 'n tydperk van nie langer as ses maande nie of tot sodanige tronkstraf sonder die keuse van 'n boete of tot albei sodanige boete en sodanige tronkstraf en, in die geval van 'n voortgesette misdryf, tot 'n bykomende boete van nie meer as twee honderd rand nie of bykomende tronkstraf vir 'n tydperk wat nie meer as tien dae is nie of tot sodanige tronkstraf sonder die keuse van 'n boete of tot albei sodanige bykomende boete en tronkstraf vir elke dag waarop sodanige misdryf verder gepleeg word.

- (4) Elkeen wat die bepalings van hierdie verordening oortree, is aanspreeklik daarvoor om die munisipaliteit te vergoed vir enige verlies of skade deur die munisipaliteit gelyk as gevolg van sodanige oortreding.

55. Herroeping

Die verordeninge soos aangedui in die eerste kolom van Bylae 1 word hierby herroep tot die mate soos in die tweede kolom van Bylae 1 aangedui.

BYLAE 1 VERORDENINGE WAT HERROEP IS

TITEL VAN VERORDENING	MATE VAN HERROEPING
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31492

MUNISIPALITEIT KAAP AGULHAS

Verordening insake die Omheining van Persele

Om die oprigting van heinings te beheer

Indeling van artikels

- Woordbepaling
- Toepassing van hierdie verordening
- Oprigting van heinings
- Vervalle, ontsierde en onooglike heinings
- Eienaarskap van heinings
- Delegasie van magte en pligte
- Strafbepaling

Bylae

1. Woordbepaling

In hierdie verordening, tensy onbestaanbaar met die sinsverband, beteken:—

“**die Wet**” die Wet op Nasionale Boustandaarde en Bouregulasies, Wet nr 103 van 1977;

“**eienaar**” die persoon in wie die titel tot 'n perseel regtens berus en omvat dit ook 'n okkupeerder;

“**heining**” ook 'n grens-, tuin- of ander vrystaande muur;

“**ingenieur**” die persoon aangestel deur die munisipaliteit om op te tree as ingenieur vir die doeleindes van hierdie verordening;

“**munisipaliteit**” die Munisipaliteit van Kaap Agulhas;

“**NBR**” die nasionale bouregulasies uitgevaardig ingevolge die

“occupier” means any person in actual occupation of premises or having the charge or management thereof, without regard to the title under which he or she occupies it;

“NBR” means any national building regulations promulgated in terms of the Act, and any South African Bureau of Standards Code of Practice for the application of the national building regulations;

“premises” means any piece of land, with or without improvements;

“owner” means the person in whom is vested the legal title to premises and includes an occupier;

“Tariff Policy By-law”, means the Tariff Policy By-law adopted by the municipality and published in Provincial Gazette;

“zoned” means a land use right which may be exercised on premises in terms of the provisions of a town planning scheme, and includes any approval which may have been granted in respect of the particular premises in terms of any town planning legislation.

2. Application of this by-law

- (1) This by-law binds an organ of state.
- (2) The provisions of this by-law do not derogate from the provisions of any other legislation.
- (3) Notwithstanding the provisions of subsection (1) above, the provisions of any legislation relating to town planning are subject to this by-law.
- (4) The erection of a fence which falls within the definition of “building”, in terms of the provisions of the Act, shall also be subject to compliance with the provisions of this by-law insofar as the provisions of the by-law are supplementary to the provisions of the NBR.
- (5) Fences on premises zoned for agricultural purposes and which do not constitute a boundary with public land, are exempted from compliance with the provisions of this by-law.

3. Erection of fences

- (1) No person may erect or cause to erect a fence on premises:—
 - (a) without the prior approval of the engineer, and
 - (b) otherwise than in accordance with this by-law.
- (2) An application for the engineer’s approval to erect a fence, must be:—
 - (a) submitted on a form provided by the engineer;
 - (b) accompanied by plans in duplicate, drawn in accordance with the scales stipulated in the NBR, clearly indicating the position of the premises concerned, the foundation, the building materials to be used and the method of construction, together with adequate dimensions of the proposed fence;
 - (c) accompanied by the appropriate fee determined in terms of the Tariff Policy By-law; and
 - (d) in accordance with the specifications for the erection of fences, as contained in the Schedule to this by-law.
- (3) If the engineer has reason to believe that fencing of a premises will prevent a danger to persons or property, the engineer may require from the owner of such premises to erect a boundary fence within a reasonable period of time.

4. Dilapidated, defaced and unsightly fences

- (1) An owner on whose premises a fence has been erected may not—

Wet, en enige gebruikskode van die Suid-Afrikaanse Buro van Standaarde vir die toepassing van die bouregulasies;

“okkupeerder” enige persoon wat werklik ’n perseel okkupeer of dit beheer of bestuur, ongeag die titel waaronder hy of sy dit okkupeer;

“oprig” ook die aanbring van veranderings aan ’n heining;

“perseel” enige gedeelte grond, met of sonder verbeterings;

“Raad” die munisipale raad van die munisipaliteit;

“soneer” ’n grondgebruiksreg wat uitgeoefen mag word op persele ingevolge die bepalings van ’n dorpsaanlegskema en sluit dit in enige goedkeuring wat ten opsigte van die betrokke perseel ingevolge die bepalings van stadsbeplanningswetgewing toegestaan is, en

“Tariefbeleidverordening” die Tariefbeleidverordening wat deur die munisipaliteit aanvaar is en in die Provinsiale Koerant gepubliseer is.

2. Toepassing van hierdie verordening

- (1) Hierdie verordening bind ’n orgaan van die staat.
- (2) Die bepalings van hierdie verordening doen nie afbreuk aan die bepalings van enige ander wetgewing nie.
- (3) Nieteenstaande die bepalings van subartikel (2) hierbo, is die bepalings van enige stadsbeplanningswetgewing onderhewig aan hierdie verordening.
- (4) Die oprigting van ’n heining wat ingevolge die bepalings van die Wet, binne die woordbepaling van “gebou” val, is ook onderhewig aan die nakoming van die bepalings van hierdie verordening insoverre die bepalings van hierdie verordening aanvullend is tot die bepalings van die NBR.
- (5) Heinings op persele wat vir landboudoeleindes soneer is en wat nie ’n grens vorm met openbare grond nie, is uitgesluit van die nakoming van die bepalings van hierdie verordening.

3. Oprigting van heinings

- (1) Niemand mag ’n heining op ’n perseel oprig of laat oprig nie:—
 - (a) behalwe met die vooraf toestemming van die ingenieur, en
 - (b) anders as in ooreenstemming met die bepalings van hierdie verordening.
- (2) ’n Aansoek om die toestemming van die ingenieur om ’n heining op te rig, moet:—
 - (a) ingedien word op ’n vorm wat deur die ingenieur voorsien word;
 - (b) vergesel gaan van planne in duplikaat, geteken in ooreenstemming met die skale wat deur die NBR vereis word, wat duidelik die posisie van die betrokke perseel aandui, die fondament, die boumateriaal wat gebruik gaan word en die metode van oprigting, met genoegsame afmetings van die voorgestelde heining;
 - (c) vergesel word van die toepaslike fooi soos vasgestel ingevolge die Tariefbeleidverordening, en
 - (d) in ooreenstemming wees met die spesifikasies vir die oprigting van heinings, soos bevat in die Bylae tot hierdie verordening.
- (3) As die ingenieur rede het om te vermoed dat die omheining van ’n perseel ’n gevaar vir persone of eiendom sal verhoed, kan die ingenieur van die eienaar van so ’n perseel vereis dat ’n grensheining binne ’n redelike tydperk opgerig word.

4. Vervalle, ontsierde en onooglike heinings

- (1) ’n Eienaar van ’n perseel waarop ’n heining opgerig is, mag nie—

- (a) allow the fence to:—
 - (i) fall into a dilapidated or unsightly condition, or
 - (ii) become a danger or potential danger to persons or property;
 - (b) deface, or allow the fence to be defaced by posters, placards or graffiti, or
 - (c) affix or paint, or allow to be affixed or painted on the fence, advertising signs not approved in accordance with the Council's by-law relating to outdoor advertising.
- (2) The engineer may require from the owner of premises to repair, alter, remove or demolish a fence which has become defaced, dangerous, dilapidated or unsightly.

5. Ownership of fences

- (1) In cases where there is a dispute in regard to the ownership of a fence, and such ownership cannot be determined from municipal records, it will be incumbent upon the registered owners of the premises concerned to provide proof of ownership at own cost.
- (2) If the owners fail to provide proof of ownership, the engineer will appoint a land surveyor to determine the ownership of the fence, and recover the costs from the person who is proved to be the owner.
- (3) If the land surveyor finds the fence to be situated on the boundary of the properties concerned, the costs will be recovered from each owner concerned.

6. Delegation of powers and duties

- (1) The engineer may delegate any power or duty that have been conferred on the engineer in terms of this by-law to any official of the municipality.
- (2) A delegation in terms of sub-section (1)—
 - (a) must be in writing;
 - (b) is subject to any limitations, conditions and directions the engineer may impose;
 - (c) does not divest the engineer of the responsibility concerning the exercise of the power or the performance of the duty.
- (3) The engineer may amend or withdraw any delegation in terms of sub-section (1), but no such amendment or withdrawal shall invalidate anything done as a consequence of such delegation.

7. Offences and penalties

Any person who contravenes or fails to comply with any provision of this by-law is guilty of an offence and liable on conviction to a fine.

SCHEDULE

SPECIFICATIONS FOR THE ERECTION OF FENCES

Arrangement of Items

- 1. General specifications for the erection of fences.
- 2. Fences that fall within the definition of "building" in the Act.
- 3. Fences that are constructed mainly from metal components
- 4. Wire fences
- 5. Wooden fences

- (a) toelaat dat die heining:—
 - (i) in 'n vervalte of onooglike toestand raak nie, of
 - (ii) 'n gevaar of potensiële gevaar vir persone of eiendom word nie;
 - (b) 'n heining ontsier, of toelaat dat 'n heining deur plakate, aanplakbiljette of graffiti ontsier word nie, of
 - (c) advertensietekens wat nie ingevolge die Raad se verordening insake buitemuurse advertensietekens goedgekeur is nie, op 'n heining aanbring of verf, of toelaat dat dit daarop aangebring of geverf word nie.
- (2) Die ingenieur kan van die eienaar van 'n perseel vereis dat 'n heining wat ontsier, gevaarlik, vervalte of onooglik geraak het, herstel, verander of gesloop moet word.

5. Eienaarskap van heinings

- (1) In gevalle waar daar 'n dispuut is oor die eienaarskap van 'n heining, en eienaarskap kan nie deur middel van die munisipaliteit se rekords bepaal word nie, moet die geregistreerde eienaars van die betrokke persele op eie koste bewys van eienaarskap lewer.
- (2) Indien die eienaars nie bewys van eienaarskap kan lewer nie, sal die ingenieur 'n landmeter aanstel om die eienaarskap van die heining te bepaal en die koste verhaal van die persoon wat as eienaar uitgewys word.
- (3) As die landmeter vasstel dat die heining op die grens van die betrokke persele geleë is, sal die koste van elke eienaar verhaal word.

6. Delegasie van magte en pligte

- (1) Die ingenieur kan enige bevoegdheid of plig wat ingevolge hierdie verordening aan die ingenieur verleen is, aan enige amptenaar van die munisipaliteit delegeer.
- (2) 'n Delegasie ingevolge die bepalings van subartikel (1):—
 - (a) moet skriftelik wees;
 - (b) is onderhewig aan die beperkings, voorwaardes en aanwysings wat die ingenieur mag bepaal, en
 - (c) onthef nie die ingenieur van enige verantwoordelikheid betreffende die uitoefening van die mag of die uitvoering van die plig nie.
- (3) Die ingenieur kan enige delegasie ingevolge die bepalings van subartikel (1) verander of terugtrek, maar geen sodanige verandering of terugtrekking sal enigiets wat ingevolge so 'n delegasie gedoen is, ongedaan maak nie.

7. Strafbepaling

Enige persoon wat 'n bepaling van hierdie verordening oortree of nalaat om daaraan te voldoen, is skuldig aan 'n oortreding en kan by skuldigbevinding 'n boete opgelê word.

BYLAE

SPESIFIKASIES VIR DIE OPRIGTING VAN HEININGS

Indeling van items

- 1. Algemene spesifikasies vir die oprigting van heinings
- 2. Heinings wat binne die woordoms krywing van "gebou" in die Wet val.
- 3. Heinings wat hoofsaaklik van metaal vervaardig is.
- 4. Draad heinings
- 5. Hout heinings

6. Electric fences

7. Hedges

1. General specifications for the erection of fences

- (1) Fences must be erected within the boundaries of the premises of the owner and may not encroach on or project over any other property.
- (2) Except with the permission of the engineer, the maximum height of a fence may not exceed 2,1 m.
- (3) For the purpose of (2) above, the height of a fence is calculated from natural ground level. In cases where the natural ground level has been disturbed, natural ground level will be regarded as street or road level.
- (4) Where in the opinion of the engineer the proposed height of a fence may restrict the sight distance of traffic, may cause a danger of any kind, or restrict the light on adjacent properties, the engineer may require that the height of the fence be restricted to a height lower than the maximum of 2,1 m.
- (5) Corner splays must comply with the relevant design codes prescribed for streets and roads and should be cleared with the Chief Traffic Officer of the municipality before an application for the erection of a fence is submitted.
- (6) Except with the permission of the engineer, gates may not swing towards the street when opened.
- (7) Except with the permission of the engineer, no fence may be constructed from previously used materials.
- (8) Barbed wire and razor wire components may not be lower than 1,8 m from ground level.

2. Fences that fall within the definition of "building" in the Act.

Fences in this category are subject to the provisions of the NBR and must in addition, comply with the following specifications:

- (a) Concrete fences that form boundaries with streets and public land and must have the smooth side facing the street or public land.
- (b) Plastered walls must be painted.
- (c) Metal components of walls must either be galvanised or painted.

3. Fences that are constructed mainly from metal components

- (1) Metal components must either be galvanised or painted.
- (2) Anchor posts must be set in concrete foundations which comply with the SABS Code of Practice for the application of the NBR, 0400 of 1999.
- (3) When components with sharpened ends are used, the sharpened ends must be at least 1,8 m from ground level.

4. Wire fences

- (1) Anchor posts must be set in concrete foundations which comply with the SABS Code of Practice for the application of the NBR, 0400 of 1999.
- (2) Subject to item 1(8), except in areas zoned for agricultural purposes, no barbed wire fences are allowed.

5. Wooden fences

- (1) Anchor posts must be set in concrete foundations which comply with the SABS Code of Practice for the application of the NBR, 0400 of 1999.

6. Elektriese heinings

7. Hegge

1. Algemene spesifikasies vir die oprigting van heinings

- (1) Heinings moet binne die grense van die eienaar se perseel opgerig word en mag nie op enige ander eiendom oorskrei of oorstek nie.
- (2) Behalwe met die toestemming van die ingenieur, mag die maksimum hoogte van 'n heining nie 2,1 m oorskrei nie.
- (3) Vir die doeleindes van (2) hierbo, word die hoogte van 'n heining vanaf die natuurlike grondvlak bepaal. In gevalle waar die natuurlike grondvlak versteur is, sal die natuurlike grondvlak as straat- of padvlak beskou word.
- (4) Waar die voorgestelde hoogte van 'n heining, na die mening van die ingenieur, die sigafstand van verkeer mag beperk, 'n gevaar van enige aard mag veroorsaak, of die lig op enige aangrensende eiendom mag beperk, kan die ingenieur vereis dat die hoogte van die heining tot laer as 2,1 m beperk word.
- (5) Hoekafskuinsings moet voldoen aan die toepaslike ontwerpkode wat vir strate en paaie voorgeskryf word en moet met die Hoof Verkeersbeampte van die munisipaliteit uitgeklaar word voordat 'n aansoek om 'n heining op te rig ingedien word.
- (6) Behalwe met die toestemming van die ingenieur, mag hekke nie na die straat se kant oopmaak nie.
- (7) Behalwe met die toestemming van die ingenieur, mag geen heining van voorafgebruikte materiale vervaardig word nie.
- (8) Doringdraad of lemmetjiesdraad bestanddele mag nie laer as 1,8 m van die grondvlak aangebring word nie.

2. Heinings wat binne die woordskrywing van "gebou" van die Wet val

Heinings in hierdie kategorie is onderhewig aan die bepalings van die NBR en moet, aanvullend daartoe, aan die volgende spesifikasies voldoen:

- (a) Betonheinings wat op grense is met strate en openbare grond, se gladde kante moet na die straat of openbare grond wys.
- (b) Gepleisterde mure moet geverf word.
- (c) Metaal bestanddele van heinings moet gegalvaniseer of geverf word.

3. Heinings wat hoofsaaklik van metaal vervaardig is

- (1) Metaal bestanddele moet gegalvaniseer of geverf wees.
- (2) Ankerpale moet in beton fondamente gegiet word wat in ooreenstemming is met die SABS Gebruikskode vir die toepassing van die NBR, 0400 van 1999.
- (3) Wanneer bestanddele met skerp punte gebruik word, moet die skerp punte ten minste 1,8 m bo grondvlak wees.

4. Draad heinings

- (1) Ankerpale moet in beton fondamente gegiet word wat in ooreenstemming is met die SABS Gebruikskode vir die toepassing van die NBR, 0400 van 1999.
- (2) Onderhewig aan item 1(8), mag geen doringdraad heinings gebruik word nie, behalwe in gebiede wat vir landbou-doeleindes soneer is.

5. Hout heinings

- (1) Ankerpale moet in beton fondamente gegiet word wat in ooreenstemming is met die SABS Gebruikskode vir die toepassing van die NBR, 0400 van 1999.

- (2) Wooden components must be free of splinters and either varnished, painted or treated with creosote.
- (3) No pole or split pole fences will be allowed on boundaries on streets, roads or public land.
- (4) When components with sharpened ends are used, the sharpened ends must be at least 1,8 m from ground level.

6. Electric fences

Fences in this category are subject to the provisions of the Electrical Machinery Regulations (GNR 1592, as amended), issued in terms of the Occupational Health and Safety Act, Act 85 of 1993.

7. Hedges

- (1) Hedges on boundaries on streets, roads and public land must be planted at least 1 m inside the boundary line and, in the case of fast-growing shrubs, at least 1,5 m inside the boundary line.
- (2) Hedges on boundaries on streets, roads and public land may not consist of plants which bear thorns, are liable to produce sharp branches or leaves or is poisonous to persons or animals.

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- (2) Hout bestanddele moet vry wees van splinters en moet vernis, geverf of met kreosoot behandel wees.
- (3) Geen paal heinings of gesplete paal heinings sal op grense met strate, paaie of openbare grond toegelaat word nie.
- (4) Wanneer bestanddele met skerp punte gebruik word, moet die skerp punte ten minste 1,8 m bo grondvlak wees.

6. Elektriese heinings

Heinings in hierdie kategorie is onderhewig aan die Elektriese Masjienerie Regulasies (GNR 1952, soos gewysig), uitgereik ingevolge die bepalings van die Wet op Beroepsgesondheid en Veiligheid, Wet 85 van 1993.

7. Hegge

- (1) Hegge op grense met strate, paaie en openbare grond moet ten minste 1 m binne die die grenslyn geplant word en, in die geval van vinnig groeiende struik, ten minste 1,5 m binne die grenslyn.
- (2) Hegge op grense met strate, paaie en openbare grond mag nie bestaan uit plante wat dorings dra, wat geneig is om skerp takke of blare te dra of wat giftig is vir mense of diere nie.

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CAPE AGULHAS MUNICIPALITY

By-Law to Prevent and Control Public Nuisances

To regulate the prevention and control of public nuisances.

Index

- 1. Definitions
- 2. Public nuisances prohibited
- 3. Declaration of public nuisances
- 4. Compliance notice
- 5. Application
- 6. Transitional arrangements
- 7. Offences and Penalties

1. Definitions

In this by-law, unless inconsistent with the context:—

“authorised employee” means an official in the employ of the municipality, designated by the Municipal Manager;

“domesticated animal” means an animal such as a dog, cat, fish or rodent, generally regarded as a pet;

“Council” means the council of the municipality;

“heavy vehicle” means any vehicle or trailer with a tare of three tonnes or more;

“implement” means any machinery or equipment, whether self-propelled or not;

“municipality” means the Municipality of Cape Agulhas;

“person in charge of a premises” means a registered owner of a property or business, an occupier, a manager or acting manager of a business or any other person who derives a benefit from the premises concerned;

“public nuisance” means any act, omission or condition which is offensive, which is injurious or dangerous to health, which materially interferes with the ordinary comfort, convenience, peace

KAAP AGULHAS MUNISIPALITEIT

Verordening om Openbare Oorlaste te Voorkom en te Beheer

Om die voorkoming en beheer van openbare oorlaste te reguleer.

Inhoudsopgawe

- 1. Woordbepaling
- 2. Verbod op openbare oorlaste
- 3. Verklaring as openbare oorlaste
- 4. Voldoeningskennisgewings
- 5. Toepassing
- 6. Oorgangsmaatreëls
- 7. Strafbepaling

1. Woordbepaling

In hierdie verordening, tensy onbestaanbaar met die sinsverband, beteken:—

“gemagtigde werknemer” ’n amptenaar in die diens van die munisipaliteit wat deur die Munisipale Bestuurder aangewys is;

“huisdier” ’n dier soos ’n hond, kat, vis of knaagdier wat algemeen as ’n troeteldier beskou word;

“implement” enige masjienerie of toerusting, hetsy self aangedrewe aldan nie;

“munisipaliteit” die Munisipaliteit van Kaap Agulhas;

“openbare oorlaste” enige handeling, versuim of toestand wat aanstootlik is, wat nadelig of gevaarlik is vir die gesondheid, wat die gewone gemak, gerief, rus of stilte van die publiek wesentlik belemmer of wat die veiligheid van die publiek nadelig raak;

“persoon in beheer van ’n perseel” ’n geregistreerde eienaar van ’n perseel of ’n besigheid, ’n okkupeerder, ’n bestuurder of waarnemende bestuurder van ’n besigheid of enige ander persoon wat ’n voordeel verkry uit die betrokke perseel;

“Raad” die raad van die munisipaliteit;

“soneer” ’n gebruiksreg wat ingevolge die bepalings van ’n