

## **LOCAL GOVERNMENT NOTICE**

### **EMALAHLENI LOCAL MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] read with section 162 of the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996], the by-laws relating to Waste Management that comes into operation on the date of publication thereof in the Provincial Gazette.

#### **BY-LAWS RELATING TO WASTE MANAGEMENT**

##### **PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution;

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to regulate waste management in the municipal area for the benefit of the public residing in or visiting the Municipality.

NOW THEREFORE be it enacted by the Council as follows:

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## [1] Definitions

For the purposes of these By-laws, unless the context otherwise indicates-

**“Act”** means the National Environmental Management: Waste Act 59 of 2008

**“Bin”** means a standard type waste bin with a capacity between a minimum of 85 litres and a maximum of 100 litres, or a standard type wheelie bin with a maximum capacity of 240 litres;

**“Bin liner”** means a disposable plastic bag provided by the Municipality or approved by the Waste Management Officer with a storage capacity between a minimum of 85 litres and a maximum of 100 litres;

**“Building and demolition waste”** means waste, excluding hazardous waste, produced during the construction, alteration, repair or demolition of any structure, and includes rubble, earth, rock and wood displaced during that construction, alteration, repair or demolition;

**“Bulky waste”** means waste, other than industrial waste, hazardous waste, building and demolition waste or health care risk waste, which cannot by virtue of its mass, shape, size or temporary extraordinary generation be conveniently or practically stored in a container;

**“Business waste”** means waste; excluding garden waste, bulky waste hazardous waste and any waste collected separately for re-use or recycling; that emanates from premises or facilities that are used wholly or mainly for commercial, retail, wholesale, entertainment, administration purposes, or an accommodation establishment as defined in section 1 of the, Tourism Act (Act 72 of 1993);

**“Confidential information”** means trade, business or industrial information that belongs to a person, has a particular economic value, and is not generally available to or known by others;

**“Container”** means a disposable or re-usable vessel in which waste is placed for the purposes of storing, accumulation, handling, transporting, treating or disposing of that waste, and includes bins, bin-liners and skips;

**“Disposal”** means the burial, deposit, discharge, abandoning, dumping, placing or placing of any waste into, or onto, any land;

**“Disposal facility”** means a facility or site for the disposal of waste; including any landfill site, forwarding facility, transfer facility, drop-off centre or container yard used partially or solely for disposal of waste, and which is owned by the Municipality or has been approved for the purpose by the Municipality

**“Domestic waste”** means waste; excluding garden waste, bulky waste hazardous waste and any waste collected separately for re-use or recycling; that emanates from premises that are used wholly or mainly for residential, educational, health care, sport or recreational purposes;

**“Garden waste”** means waste which is generated as a result of normal gardening activities on any premises, such as grass cuttings, leaves, plants, flowers, weeds, clippings of trees, hedges or fences and other similar small and light matter;

**“Hazardous waste”** means any waste that contains organic or inorganic elements or compounds that may, owing to the inherent physical, chemical or toxicological characteristics of that waste, have a detrimental impact on health and the environment;

**“Health care risk waste”** means hazardous waste originating at a health care facility which includes, but is not limited to:

- [a] “infectious waste”, i.e. waste that may contain pathogenic micro- organisms;
- [b] “sharps”, i.e. sharp and pricking objects that may cause injury as well as infection;
- [c] “pathological waste”, ie. parts that are sectioned from a body;
- [d] “chemical waste”, i.e. all kinds of discarded chemicals, including pharmaceuticals that pose a special risk to human health and environment; and/or
- [e] “radioactive waste” i.e. solid, liquid and gaseous waste contaminated with radionuclide;

**“Inert waste”** means waste that does not-

- [a] undergo any significant physical, chemical or biological transformation;
- [b] burn, react physically or chemically biodegrade or otherwise adversely affect any other matter or environment with which it may come into contact; and
- [c] impact negatively on the environment, because of its pollutant content and because the toxicity of its leachate is insignificant;

**“Industrial waste”** means waste (in solid form) generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities, but does not include building and demolition waste, business waste, hazardous waste, health care risk waste, domestic waste, garden waste, or waste collected separately for re-use or recycling;

**“Licensed disposal facility”** means a disposal facility which has been licensed in terms of section 19 and 50 of the Waste Act or which in terms of section 80 of the Waste Act may continue to operate under a license issued under the Environmental Conservation Act (Act 73 of 1989);

**“Licensed incinerator”** means a disposal facility which uses an incinerator for incineration of waste which has been licensed in terms of section 19 and 50 of the Waste Act or which in terms of section 80 of the Waste Act may continue to operate under a license issued under the Environmental Conservation Act (Act 73 of 1989);

**“Medical Officer of Health”** means the person who from time to time is appointed to such position either substantively or in an acting capacity by the Municipality and includes any Deputy Medical Officer of Health so appointed;

**“Municipality”** means the council of the Emalahleni Municipality and its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these by-laws;

**“Occupier”** means-

- [a] any person in actual occupation of premises without regard to the title under which he or she occupies, if any; or

**[b]** the owner of unoccupied premises; or

**[c]** the owner of premises at which the owner permits occupation by more than one occupant; or

**[d]** the owner in cases where the occupants fail to fulfill their obligation in terms of these by-laws

**“Owner”** in relation to premises means-

**[a]** the person who from time to time is registered as such in a deeds registry as defined in the Deeds Registries Act, 1937 (Act 47 of 1937); or

**[b]** in cases where such person is insolvent or diseased, or is under any form of legal disability whatsoever, the person in whom the administration of his property is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative; or

**[c]** where a sectional title register has been opened in terms of section 12 of the Sectional Titles Act, 1986 (Act 95 of 1986), the body corporate as defined in that Act; and

**[d]** includes any persons receiving rent for such premises whether on his own account or as an agent for a person entitled thereto;

**“Premises”** means any premises which are located within the area of jurisdiction of the Municipality;

**“Recycle”** means a process where waste is reclaimed for further use, which process involves the separation of waste from a waste stream further use and the processing of such separated material as a product or raw material;

**“Residential”** means used for the purpose of human habitation, but excludes use of accommodation establishment as defined in section 1 of the Tourism Act, 1993 (Act 72 of 1993);

**“Re-use”** means to utilise articles from the waste stream again for a similar or different purpose without changing the form or properties of the article;

**“Skip”** means a large bulk container which is temporary stored on premises for collection of wastes;

**“Tariff charge”** means the appropriate charge as set out in the tariff of charges adopted by resolution of the Municipality from time to time;

**“Waste”** means any substance defined as such in terms of the Waste Act;

**“Waste Act”** means the National Environmental Management: Waste Act (Act No. 59 of 2008);

**“Waste Management Officer”** means the officer who in terms of section 10 (3) of the Waste Act is designated in writing by the Municipality to be responsible for coordinating matters pertaining to waste management in the Municipality; and includes any other official to whom a power delegated or a duty assigned to the Waste Management Officer has been sub delegated or further assigned in writing by the Waste Management Officer in terms of section 10 (4) of the Waste Act;

**“Waste service provider”** means any service provider who renders a service with regards to the treatment, segregation, collection, removal, transportation, recycling and/or disposal of waste which was generated on premises which are not owned or operated by the service provider.

## **PURPOSE OF BY-LAW**

### **[2] Purpose of by-law**

- [1]** The purpose of these by-laws is:
  - [a]** to promote the achievement of a safe and healthy environment for the benefit of the residents in the area of jurisdiction of the Municipality;
  - [b]** to provide for procedures, methods, practices and standards to regulate the disposal of solid waste and the removal thereof within the area under the jurisdiction of the Municipality;
  - [c]** to give effect to sections 9 (1), 9 (3), 10 (3), 24 and other sections of the Waste Act that relate to the Municipality's executive authority to deliver waste management services; and
  - [d]** to promote compliance with the Waste Act.
- [2]** These by-laws must be read with the Waste Act.

## **MUNICIPALITY'S ROLE AND WASTE SERVICE PROVISION**

### **[3] Municipality services for collection, removal and disposal of waste**

- [1]** The Municipality shall provide services for the collection, removal and disposal of domestic and business waste from premises in terms of these by-laws and in areas and in a manner determined by the Municipality.
- [2]** The Municipality may, at its sole discretion, provide services for the routine collection, removal and disposal of garden and recyclable waste from any premises in any areas for which services are rendered in terms of subsection (1).
- [3]** The Municipality may, at the request of an occupier of premises and at the sole discretion of the Waste Management Officer, render services for bulk collection, removal and disposal of any garden waste, bulky waste, building and demolition waste and recyclable waste from such premises.
- [4]** The Municipality may, at the request of an occupier of premises and at the sole discretion of the Waste Management Officer collect, remove or dispose of any industrial or hazardous waste from any premises, subject to the Municipality having made specific contractual arrangement with the occupier or owner of the premises to do so.
- [5]** Any services rendered in terms of subsections (1) to (4) are subject to these by-laws and subject to payment of the applicable tariff charge(s) by the occupier of the premises.
- [6]** The Municipality may, at its sole discretion, exempt an occupier, or occupiers within a specified area, to whom services are provided in terms of subsection (1), (2), (3) or (4), from paying the applicable tariff charge(s) for a specified period of time, by issuing a written notice to the occupier or by public notice.

### **[4] Municipality engagement and responsibilities with regards to waste service providers**

- [1]** The Municipality may contract a waste service provider who has been registered in terms of section 12 (1) (c) of these by-laws to provide any specific waste service the Municipality may require.

- [2] Any service which a waste service provider renders in terms of subsection (1) shall, in terms of these by-laws, be deemed to have been rendered by the Municipality.
- [3] The Waste Management Officer shall keep and maintain a register of all waste service providers registered in terms of section 12 (1) (c).

**[5] Municipality notices and guidelines**

- [1] The Municipality may publish notices and guidelines from time to time as may be necessary with regards to any aspects or impacts concerning waste management within the Municipality's area of jurisdiction.
- [2] The Waste Management Officer shall upon reasonable request make available information published in terms of subsection (1) or give direction as to where such information can be viewed or obtained.

**[6] Municipality powers in relation to waste management**

- [1] The Waste Management Officer may serve a written notice to a person, including but not limited to an occupier or waste service provider, who in his opinion does not comply with the Waste Act or these By-laws, and give directions as to any aspect of the generation, treatment, storage, keeping, handling, transportation or disposal of any waste, provided such directions are in compliance with all relevant legislation, including these By-laws.
- [2] The Municipality may treat, collect, remove, store, keep, handle, transport and/or dispose of any waste from any premises or public place, in order to remedy any damage, remediate any impact or to abate any nuisance, where, in the opinion of the Waste Management Officer, such waste poses or may potentially pose an immediate and unacceptable health, safety or environmental risk; or if a person has failed to comply with any direction given in terms of subsection (1);
- [3] The Municipality may in addition to any applicable tariff charge, recover all costs incurred as a result of it acting under subsection (2) from the occupier of the relevant premises.
- [4] The Waste Management Officer may, at his/her discretion and having regard of the impact or potential impact of a waste or a waste management activity-
  - [a] serve an occupier, or waste service provider who operates within the area of jurisdiction of the Municipality, with a notice to provide him/her with information and/or a waste management plan related to such waste or activity for which the occupier or waste service provider is responsible, as the case may be;
  - [b] specify the information to be provided, the format in which such information is to be provided and the time by which and frequency at which such information is to be provided in terms subsection (a);
  - [c] specify that the information provision contemplated in terms of subsection (b) be in the form of information or a copy of a waste management plan, which is required by law or initiative of another authority; and
  - [d] use or publish any information provided in terms of subsection (a) for research and analysis of any waste management aspect or impact, integrated waste management planning, and/or public comment; unless the information is regarded as confidential information, in which case the

consent of the owner of that information is required prior to such use or publication.

## **OCCUPIERS' DUTIES**

### **[7] General duties of occupiers**

- [1]** The occupier of premises shall comply with all relevant legal requirements, including these by-laws, with regards to the generation, treatment, storage, keeping, handling and disposal of any waste.
- [2]** Requirements contemplated in subsection (1) specifically includes but are not limited to-
  - [a]** the general duty in respect of waste management in terms of section 16 of the Waste Act;
  - [b]** the general duty in respect of reduction, re-use, recycling and recovery of waste in terms of section 17 of the Waste Act;
  - [c]** the requirements and standards imposed on waste management activities in terms of section 19 and 20 of the Waste Act; and
  - [d]** the general requirements for storage of waste in terms of section 21 and 22 of the Waste Act.
- [3]** Every occupier of premises upon which any solid waste is generated, kept or stored, shall in compliance the Waste Act and section 15 of these by-laws-
  - [a]** make provision for the safe keeping or storage of such waste until collection or removal thereof from the premises; and
  - [b]** ensure that no such waste accumulates on the premises in such a manner or to such an extent as to cause litter, odour, unacceptable visual impact, or any other nuisance; or a potential health, safety or environmental risk.
- [4]** The occupier of any premises on which compactable and loose waste of any kind is produced, kept, or accumulated, shall, when necessary or required thereto under notice in writing from the Waste Management Officer, tie up securely or cause to be tied up securely, or compact such waste into bales or bundles of convenient size subject to such specifications as the Waste Management may provide.

### **[8] Occupier's duty with regards to domestic and business wastes**

- [1]** The occupier of premises shall make use of the services contemplated in section 3 (1), for all domestic waste or business waste generated on such premises, unless
  - [a]** the premises on which such waste is generated is located in an area for which the Municipality has not formally implemented a waste removal service; or
  - [b]** the occupier of a premises, has received formal written approval from the Waste Management Officer to use specified alternative services for the collection and removal of such waste for a period specified in the said approval and under conditions determined by the Waste Management Officer; or

- [c] the premises on which such waste is generated is located in an area which the Municipality has specifically and by public notice declared to be an area in which the occupier of a premise is permitted to use alternative services for the collection and removal of such waste for a specified duration and under conditions determined by the Municipality.

**[9] Occupier's responsibilities when appointing a waste service provider**

- [1] No occupier shall employ a person, who is not registered in terms of section 12 (1) (c) of the Waste Act, to provide a waste service for the collection, removal or disposal of any waste from or at the occupier's premises.
- [2] Every occupier, who intends to engage the services of a waste service provider for the collection, removal or disposal of waste from his premises, shall ensure that such waste is collected and removed in terms of the provisions of these by-laws within a reasonable time, but not later than 90 days after the generation thereof or any other date to which the Waste Management Officer has agreed in writing.

**[10] Occupier's responsibilities with regards to notification of change**

- [1] Whenever there is a change in the occupation or ownership of premises, the new occupier, who is liable in terms of section 8 to comply with the requirements of that section, shall forthwith notify the Waste Management Officer in writing of such change within 14 days of such change.
- [2] The occupier of premises, who is liable to comply with the requirements of section 8, shall notify the Waste Management Officer in writing of any change in the nature of the use to which such premises are put or any change in the nature, mass or volume of waste generated thereon, which in any way affects or may affect the application of these by-laws or the tariffs for any service rendered by the Municipality in terms thereof.
- [3] Every occupier of new premises or premises on which the generation of domestic or business waste is about to be commenced, shall prior to the commencement of the generation of such waste notify the Waste Management Officer in writing
  - [a] that the premises are being occupied;
  - [b] whether business waste or domestic waste will be generated on the premises; and
  - [c] what number of households or businesses will occupy the premises.
- [4] The occupier of premises, who in terms of this section are required to notify the Waste Management Officer, shall do so by furnishing him with such information and in such a form as the Waste Management Officer may prescribe.

**[11] Occupier's liabilities in terms of served notices**

- [1] Every occupier who has been served a notice in terms of section 6 (1) shall be liable to comply with all the directions given therein.
- [2] Every occupier who has been charged tariffs or issued an invoice in terms of section 6 (3) is liable to the Municipality for payment thereof.



## **WASTE SERVICE PROVIDERS**

### **[12] General duties and registration of waste service providers**

- [1]** Any waste service provider who operates within the area of jurisdiction of the Municipality; or who owns or operates a facility used for any waste service operations; may only do so subject to-
  - [a]** compliance with any relevant legislation, including but not limited to the waste management standards and licence requirements in terms of section 20 of the Waste Act;
  - [b]** compliance with the provisions of these By-laws; and
  - [c]** being registered as a waste service provider with the Waste Management Officer, for the provision of any waste service or related operation, subject to such registration coming into effect after 12 month of the date of publication of these by-laws.
- [2]** Registration in terms of subsection (1) (c) shall be made by-
  - [a]** furnishing the Waste Management Officer with such information and in such a form as the Waste Management Officer may prescribe; and
  - [b]** payment of any administration fee as the Waste Management Officer may publish from time to time.
- [3]** Registration contemplated in terms of subsection (1) (c) may be granted or refused or withdrawn at the discretion of the Waste Management Officer and shall be subject to such conditions, whether as to period of validity, the type of waste which may be dealt with thereunder, the premises from where waste may be collected, or otherwise, as the Waste Management Officer may impose.
- [4]** A person who is not registered as a waste service provider in terms of subsection (1) or whose registration has expired or has been withdrawn or who is unable to meet the conditions imposed by the Waste Management Officer as contemplated in subsection (3), shall not hold himself out to be, or act as, a waste service provider within the Municipality's area of jurisdiction.
- [5]** Every waste service provider registered in terms of subsection (1) (c) shall-
  - [a]** maintain any vehicle, equipment, facility and site used for treating, collection, removal, transporting, keeping, storing and disposal of waste in reasonably hygienic condition and in good working order;
  - [b]** keep records of all quantities and associated classification of any waste he/she treated, collected, transported, stored for longer than 90 days, or disposed of; and shall retain such records and any landfill disposal facility consignment notes for a period of at least 3 years;
  - [c]** provide the Waste Management Officer with copies of the records contemplated in subsection (b) on at least an annual basis, or at such other frequency as the Waste Management Officer may require;
  - [d]** shall progressively contribute to and participate in activities associated with the recycling of any recyclable waste and shall, on an annual basis, provide the Waste Management Officer with a plan to do so; and

- [e]** make available himself; or any premises or equipment he uses for his business and/or any information regarding any aspect of waste service he provides within the area of jurisdiction of the Municipality, for auditing by the Waste Management Officer or any person contracted by him to do so.

**[13] Prohibition of removal of waste**

- [1]** No person may remove waste from any premises unless he is the lawful occupier of the premises; or has been specifically appointed or instructed by occupier or the Municipality or the Medical Officer of Health to do so.

**CONTAINERS AND CONTAINER MANAGEMENT**

**[14] Occupier's duties with regard to container management**

- [1]** Every occupier referred to in section 8 (1) shall, provide on his premises such number of containers as is adequate and suitable for the purpose of the temporary safe storage of all domestic and business waste as may be generated on his premises pending its removal and shall place and keep the relevant waste in such containers and in such a manner until its removal.
- [2]** Every occupier of premises on which industrial, hazardous waste or building and demolition waste is generated shall, provide on his premises such number and type of containers as is adequate and suitable for the purpose of the temporary safe storage of such waste pending its removal; unless the waste is of such nature or quantity that it cannot be reasonably containerised.
- [3]** Any occupier referred to in subsection (1) or (2) shall ensure that all containers that are in use are-
  - [a]** placed in a location which is safe and suitably accessible for its intended use and removal; and which is not visible from any street or other public place, unless the latter is not reasonably practical or the Municipality has approved of another placement, or the container has been placed on a day for collection on the same day or subsequent day;
  - [b]** maintained in a sound and serviceable condition and that any containers which are no longer capable of being so maintained are replaced;
  - [c]** kept reasonably clean and hygienic; and
  - [d]** kept closed, covered or maintained in a manner that would prevent displacement of its content and emission of odours, fumes, dust or any other nuisance.

**[15] Containers provided by the Municipality**

- [1]** The Municipality may at its sole discretion
  - [a]** supply to occupiers of premises, as part of the services in terms of section 3 (1), containers which the Waste Management Officer, at his/discretion, considers more appropriate for the collection, storage and removal of waste than containers referred to in section 14 (1), if any; or
  - [b]** supply occupiers of premises with containers for the specific use of specified recyclable waste or garden waste; or

- [c] provide any occupier of premises, at the occupier's request, with bins or skips for temporary storage of any specified waste subject to payment by the occupier of the applicable tariff charge; or
    - [d] provide communities with containers in the form of bins or skips at strategically placed locations on Municipality property, or by written consent from an occupier on his/her premises, for communal use and collection of specific waste subject to the applicable tariff charge.
  - [2] The provisions of these by-laws shall mutatis mutandis apply to containers supplied in terms of subsection (1) as if they were containers referred to in section 14 (1), provided that-
    - [a] such containers shall remain the property of the Municipality or Municipality appointed waste service provider, and may at any time either be replaced or removed by the Municipality; and
    - [b] in the event of their removal for a purpose other than one of a temporary nature, the occupier shall forthwith comply with the requirements of section 14 (1).
  - [3] The occupier or owner of premises shall be responsible for the safekeeping of any containers supplied to his premises in terms of subsection (1) and shall be liable to the Municipality for the loss thereof or any damage thereto except such as has been caused by the Municipality, or except where such a container is a disposable bin liner.
  - [4] Where, in terms of subsection (1) and in areas specified by the Waste Management Officer, the Municipality supplies occupiers with containers in the form of bin liners as part of the Municipality's routine waste collection and removal services contemplated in terms of section 3 (1), the occupier in such an area shall-
    - [a] use such bin liners exclusively for storing of the specific waste for which the bin liners are specified and intended;
    - [b] ensure that any glass or sharp object that may damage the bin-liner or may cause an injury to any person while carrying out a duty in terms of the Municipality's services, is separately wrapped before placement in the bin-liner; and
    - [c] purchase any bin-liners the occupier may require in addition to the bin-liners which the Municipality provides, for storing of waste intended for collection by the Municipality, provided that such bin liners meet any specification which the Waste Management Officer may publish from time to time.

**[16] Prohibited use of containers**

- [1] No container supplied by the Municipality in terms of section 15(1) may be used for-
  - [a] any purpose other than the intended storage of the specified waste;
  - [b] disposal or keeping of any hazardous substances at any time, unless the container is specifically intended and conspicuously and legibly labeled for such use;

- [c] disposal or keeping of any waste, substance or object which may damage the container or which may cause an injury or harm to any person while carrying out a duty in terms of the Municipality's services provided for in these by-laws;
- [d] disposal or keeping of any material, including any liquid, which by reason of its mass or other characteristics is likely to render such containers unreasonably difficult to handle or carry by any person while carrying out a duty in terms of the Municipality's services provided for in these by-laws;
- [e] disposal of hot ash or lighting a fire in.

#### **17. Disposal of waste in containers**

- [1] No person shall dispose of any waste, substance or item in a container-
  - [a] which is located on any premises; unless such person is the occupier of the premises, or has approval from the occupier or owner of the premises to do so, or the container has been specifically placed in a public space for such disposal; or
  - [b] which the Municipality has provided in terms of section 15 (1) (d); unless such person occupies premises within the community for which the container is intended.

#### **18. Removal of waste in containers**

- [1] No person shall remove any waste, substance or item from a container which is located on any premises; unless such person is the occupier of the premises, or has approval from the occupier or owner of the premises to do so, or where such removal forms part of a waste service provided by the Municipality.

### **ROUTINE COLLECTION AND REMOVAL OF WASTE**

#### **19. Determination and notification of Municipality routine services**

- [1] The Waste Management Officer shall, for services contemplated in terms of section 3 (1), and from time to time-
  - [a] determine the manner in which, the week day or days upon which, and the frequency at which waste is to be removed from a certain area; and
  - [b] notify affected occupiers of the arrangements contemplated in subsection (a) by way of written notices distributed to the relevant premises, or by way of notice boards displayed conspicuously at the main entrance roads to the affected areas at least seven (7) days prior to such arrangement coming into effect.

#### **[20] Duty of occupiers in terms of use routine services**

- [1] Every occupier of premises, within an area and on the day or days which have been determined in terms of subsection (1), and-
  - [a] to whom in terms of section 15 (1) and subject to 15 (4) bin-liners have been supplied, shall make exclusive use of such bin liners to place any waste for which the bin liners are intended outside the boundary of the premises and adjacent to either the pedestrian or the vehicular access to the premises from a public street; or

- [b]** to whom containers have been supplied in terms of section 15 (1) or who uses containers in terms of section 14(1) and where such a container is in the form of a bin, shall place such a container immediately outside the boundary of the premises and adjacent to either the pedestrian or the vehicular access to the premises from a public street; or
- [c]** to whom containers have been supplied in terms of section 15 (1) or who uses containers in terms of section 14 (1), and/or whose domestic or business waste is to be collected from the premises by the Municipality in terms of specific agreement with or direction from the Waste Management Officer, shall provide suitable and convenient vehicular access to the area in which waste containers are stored for the emptying or collection and removal of such containers, as the case may be, subject to section 22.

**[21] Disposal of waste in containers**

Every occupier of premises, on which any waste other than domestic or business waste is generated, and where such waste is generated on an ongoing or regular basis, shall dispose of such waste in accordance with these By-laws; and make arrangements with the Municipality or a waste services provider who has been registered in terms of section 12 (1) (c), for the regular or routine collection, removal and disposal of such waste.

**ACCESS TO PREMISES**

**[22] Removal of waste in containers**

- [1]** The occupier of premises to which the Municipality provides a waste removal service, shall, where necessary, grant the Municipality convenient access to the premises for the purpose of collecting and removing waste and shall ensure that nothing obstructs, frustrates or hinders the Municipality and its employees in the carrying out of its service.
- [2]** If in the opinion of the Waste Management Officer the collection or removal of waste from any premises is likely to result in damage to the premises or the Municipality's property, or injury to the waste collectors or any other person, it may as a condition of rendering a waste collection service in respect of the premises, require the occupier to indemnify it in writing in respect of any such damage or injury or any claims arising there from.
- [3]** The Municipality may, at its own discretion, include standard access specification for waste collection and removal as part of their planning and building plan approval.

**GARDEN AND BULKY WASTE**

**[23] Additional responsibilities for garden and bulky waste**

- [1]** The occupier of every premises upon which there is generated garden waste (other than garden waste which in terms of section 24 (1) (a) is used for making compost at the premises) or bulky waste, and subject to these by-laws-
  - [a]** shall, ensure that such waste, is removed from the premises and disposed of within a reasonable time after the generation thereof;
  - [b]** shall, unless it is garden waste which is collected and removed from the premises by the Municipality in terms of the section 3 (2) or section 3 (3), ensure that such waste, once it has been removed from the premises on which it was generated, be disposed of at a site designated by the

Municipality as a disposal facility for such waste; subject to meeting all the requirements the legal owners or operators of the disposal facility may prescribe and subject to payment of the relevant tariff charge; and

- [c] shall ensure that any such waste which is intended for disposal in terms of subsection (b) is transported to the disposal facility subject to section 30.

**[24] Use and disposal of garden waste**

- [1] The occupier of every premises upon which garden waste is generated-
  - [a] may use such garden waste on the premises, or provide it to any person, for the making of compost, provided such composting does not cause a nuisance or health risk;
  - [b] may collect such garden waste for removal in containers which the Municipality has in terms of section 15 (1) (b) supplied to the occupier for such specific collection;
  - [c] shall not dispose any garden waste in any container which the Municipality has, in terms of section 15 (1), supplied to the occupier for use other than for collection of garden waste.

**BUILDING AND DEMOLITION WASTE**

**[25] Additional responsibilities for building and demolition waste**

- [1] The occupier of premises on which building and demolition waste is generated and the person engaged in the activity which causes such waste to be generated shall ensure that-
  - [a] all hazardous waste (including, but not limited to, asbestos-containing materials, mercury-containing fluorescent tubes and lamps, paints, thinners, fuel, polychlorinated biphenyls (PCB)-containing equipment or substances, and pesticides) be segregated from any building and demolition waste and be treated, kept, stored and/or disposed of in terms of these By-laws and any other legal requirement, within a reasonable time after the generation thereof;
  - [b] any waste which the occupier intends to recycle is segregated from any building and demolition waste and recycled in terms of section 39;
  - [c] building and demolition waste is disposed of in terms of section 26 within a reasonable time after the generation thereof; and
  - [d] until such time as building and demolition waste is disposed of in terms of subsection (c), such waste together with the containers used for the storing or removal thereof, if any, is kept on the premises on which it was generated.
- [2] Building and demolition waste may be removed by the builder; or occupier; or in terms of 3 (3) by the Municipality; or subject to section 9 by a waste service provider.

**[26] Disposal of building and demolition waste**

- [1] Subject to the provisions of subsection (2), all building and demolition waste shall be deposited at a disposal facility specifically designated or approved in writing

by the Municipality for that purpose and the person depositing the waste shall be liable to pay any relevant tariff or fee charge therefore.

- [2]** Building and demolition waste may, with the written consent of the Waste Management Officer, be deposited at a place other than a disposal facility for the purpose of reclamation of land, landfill top cover, road surfacing or other purposes connected with such site, as the Waste Management Officer may specify.
- [3]** Any consent given in terms of subsection (2) shall be subject to such conditions as the Waste Management Officer may deem necessary; provided that in giving or refusing his consent or in laying down conditions the Waste Management Officer shall have regard to-
  - [a]** the safety of the public;
  - [b]** the environment of the proposed disposal facility;
  - [c]** the suitability of the area including the drainage thereof;
  - [d]** the expected manner and times of depositing of waste at the site;
  - [e]** the levelling of the site;
  - [f]** the control of dust; and
  - [g]** other relevant factors.

#### **INDUSTRIAL WASTE, HAZARDOUS WASTE, HEALTH CARE RISK WASTE AND PRIORITY WASTE**

##### **[27] Provision of information on industrial waste, hazardous waste, health care risk waste and priority waste**

- [1]** The occupier of premises on which industrial waste, hazardous waste, health care risk waste and/or priority waste is generated shall notify the Waste Management Officer of such production; and shall within twelve months of publication of these by-laws and on an annual basis thereafter, provide the Waste Management Officer in writing, and for every waste stream or type, with detailed information on-
  - [a]** the classification of the waste produced, where this classification shall be in accordance with the SANS 10228 (SABS 0228): The identification and classification of dangerous substances and goods, or any amendment thereto, or a classification as may be regulated in terms of section 69 (1) of the Waste Act;
  - [b]** the composition of the waste, as substantiated by an analysis certified by a suitably and duly qualified chemist or a South African National Accreditation System accredited laboratory;
  - [c]** the quantity of waste generated;
  - [d]** the method and period of keeping or storage of the waste;
  - [e]** the method of removal, transportation and disposal of the waste;
  - [f]** the persons appointed for the removal, transportation and disposal of the waste;

- [g] the disposal facility which is used for the disposal of the waste; and
      - [h] documented proof of waste disposal at the disposal facility.
  - [2] Having notified the Waste Management Officer in terms of subsection (1), the occupier shall notify the Waste Management Officer forthwith and in writing of any substantial change in the composition and quantity of the waste occurring thereafter.
  - [3] Any occupier or waste service provider operating within the area of jurisdiction of the Municipality, who is required in terms of section 29 of the Waste Act to prepare an industry waste management plan, shall submit a copy of such a plan to the Waste Management Officer, at the time of submission of the plan to the relevant authority or prior to commencement of any activity for which the plan is required.
- [28] **Prohibition of provision of waste service activities for industrial waste, hazardous waste, health care risk waste and priority waste**
  - [1] The occupier of premises on which industrial waste, hazardous waste, health care risk waste and/or priority waste is generated, shall not (except where the waste is inert waste) allow any person to remove from the premises, transport, treat away from the premises, or dispose of any such waste, unless the person is a waste service provider who is registered in terms of section 12 (1) (c) and who-
    - [a] is in terms of sections 20 and 49 (2) of the Waste Act specifically licensed to carry out such an activity; and
    - [b] applies all standards or requirements that have been set in terms of the Act or a relevant waste management licence; or
    - [c] acts under specific instructions of or notifications by the Waste Management Officer or the Medical Officer of Health to carry out such an activity.
- [29] **The Waste Management Officer's right to enter premises on which industrial waste, hazardous or health care risk waste is generated**
  - [1] The Waste Management Officer may enter premises at any reasonable time to ascertain whether industrial waste, hazardous waste, health care risk waste or priority waste is generated on such premises and may take samples and test any waste found on the premises to ascertain its composition.

## **TRANSPORTATION OF WASTE**

- [30] **Transportation of waste**
  - [1] Any person removing or conveying any waste or other offensive matter shall-
    - [a] do so subject to compliance to any relevant legislation including, but not limited to, the National Road Traffic Act, Act No. 93 of 1996 and section 25 of the Waste Act;
    - [b] do so by means of an appropriately licensed, constructed and enclosed vehicle;
    - [c] do so in such a manner as will comply with all legal requirements and as will prevent any nuisance arising from such conveyance or the escape of



the contents there from to a public area or any other environment not intended for the keeping, storage or disposal of the waste;

- [d] contain, collect and remove any content that accidentally escaped from a vehicle contemplated in subsection (a), immediately upon becoming aware of such accidental escape;
  - [e] contain any accidental escape of a hazardous object or any spillage or leakage of any hazardous substance immediately; secure the affected area appropriately to avoid injury and reduce the immediate health and environmental risk effectively; and report such incident to the appropriate emergency services and Waste Management Officer as soon as possible; and
  - [f] follow any instructions, specification or conditions of written notices for the removal of objects or substances contemplated in subsection (c) and remediation of the affected environment which the emergency services, the Waste Management Officer, the Medical Officer of Health, or any other relevant authority may give or impose.
- [2] The Waste Management Officer or Medical Officer of Health may serve a written notice upon any person restricting or stipulating the means to be adopted and specifying the times during which waste may be conveyed through or along any street or public place if of the opinion that the conveyance of such waste is likely to be objectionable or give rise to a nuisance, or health risk.

#### **PROHIBITED DISPOSAL AND CONDUCT AT DISPOSAL FACILITIES**

##### **[31] Prohibitions on burning of waste**

- [1] No occupier of premises may within the area of jurisdiction of the Municipality, dispose of any waste through burning, unless-
- [a] a licensed incinerator is used for that purpose; or
  - [b] the waste is burned in an industrial facility that has been specifically designed to do so and/or which does not cause any hazard or offence, or generate any emissions, that are in contravention with any relevant legislation; or
  - [c] the waste consists of domestic waste generated in a rural area for which the Municipality has not formally implemented a waste removal service, where there is a lack of any other acceptable or affordable means of waste disposal, and where such waste may otherwise potentially constitute a health or safety risk; or
  - [d] the Waste Management Officer or Medical Officer of Health give specific instructions or written approval to do so.

##### **[32] Prohibited disposal at disposal facilities**

- [1] No person shall use any disposal facility within the area of jurisdiction of the Municipality to discharge or dispose of-
- [a] any waste, object or substance, unless the facility is specifically licensed **and equipped for such disposal**;
  - [b] any liquid or sludge waste, except with the prior written permission of the Waste Management Officer and in accordance with such conditions as

the Waste Management Officer may impose; unless such disposal concerns normal domestic and sewage wastewater disposed into a municipal sewage system;

- [c]** any inflammable waste (i.e. waste which will ignite when exposed to a naked flame), putrescible waste, waste which will chemically attack the disposal facilities, and waste which separately or in a mixture with other waste will create a health hazard or a nuisance, unless specific provisions have been made for such disposal by the operator of the disposal facility, and provided such provisions are clearly labeled or signed as such;
- [d]** any waste with toxic or other harmful properties, unless it is suitably pre-treated prior to delivery to the disposal facility to render it non-toxic or harmless, or unless the disposal facility provides for the suitable treatment, keeping, storage and/or disposal of such waste; and
- [e]** any object that by its shape, size or characteristics could potentially cause injuries to any person operating or using the disposal facility or damage to the disposal facility, without taking precautions to prevent such injury or damage; or inform the operator of such potential hazard prior to disposal and follow any instructions the operator may give.

**[33] Conduct at disposal facilities**

- [1]** Every person who, for the purpose of disposing of waste, enters a disposal facility controlled by the Municipality, shall-
  - [a]** enter the disposal facility at an authorised access point indicated as such;
  - [b]** present the waste for weighing or other means of quantification in the manner required by the legal operator of the disposal facility, if any;
  - [c]** provide the legal operator of the disposal facility with all the particulars required in regard to the composition of the waste;
  - [d]** follow all instructions which the legal operator of the disposal facility may give with regard to access to the actual disposal point, the place where and the manner in which the waste should be deposited; and
  - [e]** provide the legal operator of the disposal facility with full information as to the person who is liable to pay the relevant tariff charge, if any, for the waste deposited to enable an account to be rendered to such person.
- [2]** No person shall, with regards to any disposal facility controlled by the Municipality and unless the Municipality has specifically appointed such person to do so-
  - [a]** enter such a disposal facility for any purpose other than the disposal of waste in terms of these by-laws;
  - [b]** enter such a disposal facility at a time other than between such hours as the Municipality may determine from time to time;
  - [c]** cause or allow a vehicle in such person's charge to remain at such a disposal facility for longer than is necessary for the discharge of waste;
  - [d]** cause any damage to any facilities, plant or equipment at the disposal facility or property of any other user of the disposal facility;

- [e]** cause any obstruction to any other users or with regards to any operations of such a disposal facility, whether intentional or accidental; and
- [f]** bring any intoxicating liquor onto a disposal facility.

## **OWNERSHIP OF WASTE**

### **[34] Ownership of Waste**

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

## **LITTERING, DUMPING AND ANCILLARY MATTERS**

### **[35] Littering**

- [1]** No person shall
  - [a]** throw, let fall, deposit, spill or in any other way discard, any waste into or onto any public place, vacant erf, farm portion, stream or watercourse, other than into a container or onto a disposal facility specifically provided for the purpose;
  - [b]** sweep any waste into a gutter, on a road reserve or any other public place; and
  - [c]** allow any person under his/her/its control to do any of the acts contemplated in (a) and (b).

### **[36] Dumping**

- [1]** Subject to any provision to the contrary in the by-law contained, no person shall leave any item or substance under his control at a place where such item or substance has been brought with the intention of abandoning it.
- [2]** Any person who contravenes the provisions of subsection (1), shall be liable (over and above the prescribed penalties provided for in section 40) to pay the Municipality the tariff charge in respect of such removal and disposal.

### **[37] Abandoned items or substances**

Any item or substance which, having regard to 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 thing, is reasonably regarded by the Municipality as having been abandoned, may be removed and disposed of by the Municipality as it may deem fit.

### **[38] Liability of responsible person**

- [1]** Where anything has been removed and disposed of by the Municipality in terms of section 37 the person responsible shall be liable to pay the Municipality the tariff charge in respect of such disposal.
- [2]** For the purpose of subsection (1) the person responsible shall be-
  - [a]** the last owner of the abandoned thing, before it was collected by the Municipality, and shall include any person who is entitled to be in possession of the thing by virtue of a purchase agreement or an agreement of lease at the time when it was abandoned or put in the place

from which it was so removed unless such person can prove that he/she/it was not concerned in and did not know of it being abandoned or put in such a place; or

**[b]** any person by whom it was put in the place aforesaid; or

**[c]** any person who knowingly permitted the putting of the abandoned thing in the place aforesaid.

## **WASTE MINIMISATION AND RECYCLING**

### **[39] Waste administration and recycling**

**[1]** Any occupier of premises upon which any reusable or recyclable waste is generated, and which the occupier intends to make available for reuse or recycling

**[a]** shall make provisions for the safe keeping or storage of such waste until collection and removal thereof from the premises, or recycling thereof on the premises;

**[b]** shall ensure that no such waste accumulates on the premises in such a manner or to such an extent as to cause litter, odour or any other nuisance or a potential health, safety or environmental risk, without treatment thereof that would render it reasonably harmless;

**[c]** may make use of the services which the Municipality provides in terms of sections 3 (2) and/or 3 (3) for the collection, removal and disposal of such waste for which the Municipality provides such service;

**[d]** may dispose of any such waste at any disposal facility which the [Municipality may, at the discretion of the Municipality, specifically provide for the collection, storage or disposal of such waste, subject to any relevant tariff charge; and

**[e]** may make use of the services provided by a waste service provider who has registered in terms of 12 (1) (c) and who specifically provides for the collection, removal and disposal of such waste for recycling.

**[2]** The Waste Management Officer may include in the information required in terms of section 6(4)(a) information related to waste minimisation and recycling.

## **OFFENCES AND PENALTIES**

### **[40] Offences and penalties**

**[1]** Any person who-

**[a]** contravenes any provision of these by-laws; or

**[b]** contravenes 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 such person in terms of these by-laws, shall be guilty of an offence and liable, upon conviction, to a fine not exceeding R 5,000.00 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment, as well as be liable to the Municipality for the applicable

tariff charge in respect of any remediation, treatment, removal and disposal.

- [2]** Failure to comply with the terms of any condition or notice referred to in subsection (1) (b) or (1)(c) above shall constitute a continuing offence and a person failing to comply with the terms of such condition or notice shall be guilty of a separate offence for each day during which such person fails to comply with such terms.

#### **REVOCATION OF BY-LAWS**

**[41] Revocation of by-laws**

- [1]** All previous by-laws are hereby repealed, provided that such repeal shall not affect the continued validity of charges determined by the Municipality under those by-laws.

#### **SHORT TITLE**

**[42] Short Title and Commencement**

- [1]** These by-laws shall be called the Waste Management by-laws.