

LIMPOPO PROVINCE
LIMPOPO PROVINSIE
XIFUNDZANKULU XA LIMPOPO
PROFENSE YA LIMPOPO
VUNDU LA LIMPOPO
IPHROVINSI YELIMPOPO

**Provincial Gazette • Provinsiale Koerant • Gazete ya Xifundzankulu
Kuranta ya Profense • Gazethe ya Vundu**

(Registered as a newspaper) • (As 'n nuusblad geregistreer)
(Yi rhijistariwile tanihi Nyuziphapha)
(E ngwadisitšwe bjalo ka Kuranta)
(Yo redzhistariwa sa Nyusiphapha)

POLOKWANE,

15 DECEMBER 2010
15 DESEMBER 2010
15 N'WENDZAMHALA 2010
15 DESEMERE 2010
15 NYENDAVHUSIKU 2010

Vol. 17

Extraordinary

**Ku katsa na Tigazete to
Hlawuleka hinkwato**

No. 1879

Buitengewoon

**Hu tshi katelwa na
Gazethe dza Nyingo**

IMPORTANT NOTICE

The Government Printing Works will not be held responsible for faxed documents not received due to errors on the fax machine or faxes received which are unclear or incomplete. Please be advised that an "OK" slip, received from a fax machine, will not be accepted as proof that documents were received by the GPW for printing. If documents are faxed to the GPW it will be the sender's responsibility to phone and confirm that the documents were received in good order.

Furthermore the Government Printing Works will also not be held responsible for cancellations and amendments which have not been done on original documents received from clients.

CONTENTS • INHOUD

<i>No.</i>		<i>Page No.</i>	<i>Gazette No.</i>
LOCAL AUTHORITY NOTICES			
221	Constitution of the Republic of South Africa (108/1996): Ephraim Mogale Local Municipality: Electricity Supply By-laws	3	1879
222	do.: do.: Waste Management By-laws	25	1879

GENERAL NOTICES

LOCAL AUTHORITY NOTICE 221

EPHRAIM MOGALE LOCAL MUNICIPALITY

ELECTRICITY SUPPLY BY-LAW

Be it enacted by the Council of the Ephraim Mogale Local Municipality, in terms of Section 156(2) of the Constitution of the Republic of South Africa, 1996, (Act 108 of 1996) read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), as follows:

CONTENTS	Page
1. Definitions	1
2. Other terms	3
3. Headings and titles	3
4. Provision of Electricity Services	3
5. Supply by agreement	3
6. Service of notice	3
7. Compliance with notices	4
8. Application for supply	4
9. Processing of requests for supply	4
10. Wayleaves	4
11. Statutory Servitude	5
12. Right of admittance to inspect, test and/or do maintenance work	5
13. Refusal or failure to give information	6
14. Refusal of admittance	6
15. Improper use	6
16. Electricity tariffs and fees	6
17. Deposits	6
18. Payment of charges	6
19. Interest on overdue accounts	6
20. Principles for the resale of electricity	7
21. Right to disconnect supply	7
22. Non-liability of the Municipality	7
23. Leakage of electricity	7

CONTENTS	Page
24. Failure of supply	7
25. Seals of the Municipality	8
26. Tampering with service connection or supply mains	8
27. Protection of Municipality's supply mains	8
28. Prevention of tampering with service connection or supply mains	9
29. Unauthorised connections	9
30. Unauthorised reconnections	9
31. Temporary disconnection and reconnection	9
32. Temporary supplies	9
33. Temporary work	9
34. Load reduction	10
35. Medium and low voltage switchgear and equipment	10
36. Substation accommodation	10
37. Wiring diagram and specification	11
38. Standby supply	11
39. Consumer's emergency standby supply equipment	11
40. Circular letters	11
41. Consumer to erect and maintain electrical installation	11
42. Fault in electrical installation	12
43. Discontinuance of use of supply	12
44. Change of occupier	12
45. Service apparatus	12
46. Service connection	13
47. Metering accommodation	13
48. Load requirements	14
49. Load limitations	14
50. Interference with other persons' electrical equipment	14
51. Supplies to motors	15

CONTENTS	Page
52. Power factor	15
53. Protection	15
54. Metering	16
55. Accuracy of metering	16
56. Reading of credit meters	17
57. Prepayment metering	18
58. Additional requirements for contractors	18
59. Indemnity	19
60. Cost related to deviation	19
61. Penalties	19
62. Repeal of By-laws	19
63. Short Title and Commencement	19

EPHRAIM MOGALE LOCAL MUNICIPALITY

ELECTRICITY SUPPLY BY-LAW

CHAPTER 1

1. **Definitions** - In this by-law, unless inconsistent with the context-

"accredited person" means a person registered in terms of the Regulations as an electrical tester for single phase, an installation electrician or a master installation electrician, as the case may be;

"applicable standard specification" means

- (a) SANS 1019 Standard voltages, currents and insulation levels for electricity supply,
- (b) SANS 1607 Electromechanical watt-hour meters,
- (c) SANS 1524 Parts 0,1 & 2 - Electricity dispensing systems,
- (d) SANS IEC 60211 Maximum demand indicators, Class1.0,
- (e) SANS IEC 60521 Alternating current electromechanical watt-hour meter (Classes 0.5, 1 & 2),
- (f) SANS 0142 Code of practice for the wiring of premises;
- (g) NRS 047 National Rationalised Specification for the Electricity Supply - Quality of Service.
- (h) NRS 048 National Rationalised Specification for the Electricity Supply - Quality of Supply, and
- (i) NRS 057 Electricity Metering: Minimum Requirements

"certificate of compliance" means a certificate issued in terms of the Regulations in respect of an electrical installation or part of an electrical installation by an accredited person;

"consumer" in relation to premises means:

- (i) any occupier thereof or any other person with whom the Municipality has contracted to supply or is actually supplying electricity thereat; or
- (ii) if such premises are not occupied, any person who has a valid existing agreement with the Municipality for the supply of electricity to such premises; or
- (iii) if there is no such person or occupier, the owner of the premises;

"credit meter" means a meter where an account is issued subsequent to the consumption of electricity;

"electrical contractor" means an electrical contractor as defined in the Regulations;

"electrical installation" means an electrical installation as defined in the Regulations;

"high voltage" means the set of nominal voltage levels that are used in power systems for bulk transmission of electricity in the range of $44\text{kV} < U_n \leq 220\text{ kV}$. [SANS 1019];

"low voltage" means the set of nominal voltage levels that are used for the distribution of electricity and whose upper limit is generally accepted to be an a.c. voltage of 1000V (or a d.c. voltage of 1500 V). [SANS 1019]

"the law" means any applicable law, proclamation, ordinance, act of parliament or enactment having force of law;

"medium voltage" means the set of nominal voltage levels that lie above low voltage and below high voltage in the range of $1\text{ kV} < U_n \leq 44\text{ kV}$. [SANS 1019]

"meter" means a device which records the demand and/or the electrical energy consumed and includes conventional and prepayment meters;

"motor load, total connected" means the sum total of the kW input ratings of all the individual motors connected to an installation;

"motor rating" means the maximum continuous kW output of a motor as stated on the maker's rating plate;

"motor starting current" in relation to alternating current motors means the root mean square value of the symmetrical current taken by a motor when energised at its rated voltage with its starter in the starting position and the rotor locked;

"Municipality" means EPHRAIM MOGALE LOCAL MUNICIPALITY, a municipality established in terms of Local Government: Municipal Structures Act 117 of 1998 or any legal entity duly authorized by the EPHRAIM MOGALE LOCAL MUNICIPALITY to provide an electricity service within its area of jurisdiction.

"occupier" in relation to any premises means-

- (a) any person in actual occupation of such premises;
- (b) any person legally entitled to occupy such premises;
- (c) in the case of such premises being subdivided and let to lodgers or various tenants, the person receiving the rent payable by such lodgers or tenants, whether on his/her own account or as agent for any person entitled thereto or interested therein, or
- (d) any person in control of such premises or responsible for the management thereof, and includes the agent of any such person when he/she is absent from the Republic of South Africa or his/her whereabouts are unknown;

"owner" in relation to premises means the person in whom is vested the legal title thereto; provided that-

- (a) in the case of immovable property-
 - (i) leased for a period of not less than 50 years, whether the lease is registered or not, the lessee thereof, or
 - (ii) beneficially occupied under a servitude or right analogous thereto, the occupier thereof;
- (b) if the owner as hereinbefore defined-
 - (i) is deceased or insolvent, has assigned his/her estate for the benefit of his/her creditors, has been placed under curatorship by order of court or is a company being wound up or under judicial management, the person in whom the administration of such property is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be, or
 - (ii) is absent from the Republic of South Africa, or if his/her address is unknown to the Municipality, any person who as agent or otherwise receives or is entitled to receive the rent in respect of such property, and
 - (iii) if the Municipality is unable to determine who such person is, the person who is entitled to the beneficial use of such property,

shall be deemed to be the owner thereof to the exclusion of the person in whom is vested the legal title thereto;

"point of consumption" means a point of consumption as defined in the Regulations;

"point of metering" means the point at which the consumer's consumption of electricity is metered and which may be at the point of supply or at any other point on the distribution system of the Municipality or the electrical installation of the consumer, as specified by the Municipality or any duly authorised official of the Municipality; provided that it shall meter all of, and only, the consumer's consumption of electricity;

"point of supply" means the point determined by the Municipality or any duly authorised official of the Municipality at which electricity is supplied to any premises by the Municipality;

"premises" means any land or any building or structure above or below ground level and includes any vehicle, aircraft or vessel;

"pre-payment meter" means a meter that can be programmed to allow the flow of pre-purchased amounts of energy in an electrical circuit;

"Regulations" means Regulations made in terms of the Occupational Health and Safety Act, 1993 (Act 85 of 1993), as amended;

"safety standard" means the Code of Practice for the Wiring of Premises SANS 10142-1 incorporated in the Regulations;

"service connection" means all cables and equipment required to connect the supply mains to the electrical installation of the consumer at the point of supply;

"service protective device" : means any fuse or circuit breaker installed for the purpose of protecting the Municipality's equipment from overloads or faults occurring on the installation or on the internal service connection;

"standby supply" means an alternative electricity supply not normally used by the consumer;

"supply mains" means any part of the Municipality's electricity network;

"tariff" means the Municipality's tariff of charges for the supply of electricity, and

"token" means the essential element of a prepayment metering system used to transfer information from a point of sale for electricity credit to a prepayment meter and *vice versa*;

"voltage" means the root-mean-square value of electrical potential between two conductors.

2. **Other terms** All other terms used in this by-law shall, unless the context otherwise requires, have the meaning assigned thereto in the Electricity Act, 1987 (Act 41 of 1987), as amended, or the Occupational Health and Safety Act, 1993 (Act 85 of 1993), as amended.
3. **Headings and titles** The headings and titles in this by-law shall not affect the construction thereof.

CHAPTER 2

GENERAL CONDITIONS OF SUPPLY

4. **Provision of Electricity Services** – Only the Municipality shall supply or contract for the supply of electricity within the jurisdiction of the Municipality.
5. **Supply by agreement** - No person shall use or be entitled to use an electricity supply from the Municipality unless or until such person shall have entered into an agreement in writing with the Municipality for such supply, and such agreement together with the provisions of this by-law shall in all respects govern such supply. If a person uses an electricity supply without entering into an agreement he/she shall be liable for the cost of electricity used as stated in section 44 of this bylaw.
6. **Service of notice** -
 - (1) Any notice or other document that is served on any person in terms of this by-law is regarded as having been served-
 - (a) when it has been delivered to that person personally;

- (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgement of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c); or
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates.
- (2) When any notice or other document must be authorised or served on the owner, occupier or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and it is not necessary to name that person.
- (3) Any legal process is effectively and sufficiently served on the Municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.
7. **Compliance with notices** - Any person on whom a notice duly issued or given under this by-law is served shall, within the time specified in such notice, comply with its terms.
8. **Application for supply** -
- (1) Application for the supply of electricity shall be made in writing by the prospective consumer on the prescribed form obtainable at the office of the Municipality, and the estimated load, in kVA, of the installation, shall be stated therein. (Addendum A) Such application shall be made as early as possible before the supply of electricity is required in order to facilitate the work of the Municipality.
 - (2) An application for an electricity supply for a period of less than one year shall be regarded as an application for a temporary supply of electricity and shall be considered at the discretion of the Municipality or any duly authorized official of the Municipality, which may specify any special conditions to be satisfied in such case.
9. **Processing of requests for supply** - Applications for the supply of electricity will be processed and the supply made available within the periods stipulated in NRS 047.
10. **Wayleaves** -
- (1) The Municipality may refuse to lay or erect a service connection above or below ground on any thoroughfare or land not vested in the Municipality or on any private property, unless and until the prospective consumer shall have obtained and deposited with the Municipality written permission granted by the owner of the said private property or by the person in whom is vested the legal title to the land or thoroughfare as aforesaid exists, as the case may be, authorizing the laying or erection of a service connection thereon.
 - (2) If such permission is withdrawn at any time or if the aforesaid private property or thoroughfare changes ownership and the new owner refuses to grant or continue such permission, the cost of any alteration required to be made to a service connection in order that the supply of electricity may be continued, and of any removal thereof which may become necessary in the circumstances, shall be borne by the consumer to whose premises the supply of electricity is required to be continued.

11. Statutory Servitude -

- (1) Subject to the provisions of subsection (3) the Municipality may within its municipal area:
 - (a) provide, establish and maintain electricity services;
 - (b) acquire, construct, lay, extend, enlarge, divert, maintain, repair, discontinue the use of, close up and destroy electricity supply mains;
 - (c) construct, erect or lay any electricity supply main on, across, through, over or under any street or immovable property and the ownership of any such main shall vest in the Municipality;
 - (d) do any other thing necessary or desirable for or incidental, supplementary or ancillary to any matter contemplated by paragraphs (a) to (c).
- (2) If the Municipality constructs, erects or lays any electricity supply main on, across, through, over or under any street or immovable property not owned by the Municipality or under the control of or management of the Municipality it shall pay to the owner of such street or property compensation in an amount agreed upon by such owner and the Municipality or, in the absence of agreement, as determined either by arbitration or a court of law.
- (3) The Municipality shall, before commencing any work other than repairs or maintenance on or in connection with any electricity supply main on immovable property not owned by the Municipality or under the control or management of the Municipality, give the owner or occupier of such property reasonable notice of the proposed work and the date on which it proposes to commence such work.

12. Right of admittance to inspect, test and/or do maintenance work –

- (1) The Municipality shall, through its employees, contractors and their assistants and advisers, have access to or over any property for the purposes of-
 - (a) doing anything authorized or required to be done by the Municipality under this by-law or any other law;
 - (b) inspecting and examining any service mains and anything connected therewith;
 - (c) enquiring into and investigating any possible source of electricity supply or the suitability of immovable property for any work, scheme or undertaking of the Municipality and making any necessary survey in connection therewith;
 - (d) ascertaining whether there is or has been a contravention of the provisions of this by-law or any other law, and
 - (e) enforcing compliance with the provisions of this by-law or any other law,
- (2) The Municipality shall pay to any person suffering damage as a result of the exercise of the right of access contemplated by sub-section (1), except where the Municipality is authorized to execute on the property concerned any work at the cost of such person or some other person or to execute on such property any work and recover the cost thereof from such person or some other person, compensation in such amount as may be agreed upon by the Municipality and such person or, in the absence of agreement, as may be determined by arbitration or court of law.
- (3) An employee of the Municipality authorized thereto by such Municipality may, by notice in writing served on the owner or occupier of any property, require such owner or occupier to provide, on the day and at the hour specified in such notice, access to such property to a person and for a purpose referred to in sub-section (1).
- (4) The Municipality may gain access to or over any property without notice and may take whatever action as may, in its opinion, be necessary or desirable in consequence of the existence of a state of war or the occurrence of any calamity, emergency or disaster.

13. **Refusal or failure to give information** - No person shall refuse or fail to give such information as may be reasonably required of him/her by any duly authorized official of the Municipality or render any false information to any such official regarding any electrical installation work completed or contemplated.
14. **Refusal of admittance** - No person shall willfully hinder, obstruct, interfere with or refuse admittance to any duly authorized official of the Municipality in the performance of his/her duty under this by-law or of any duty connected therewith or relating thereto.
15. **Improper use** - If the consumer uses the electricity for any purpose or deals with the electricity in any manner which the Municipality has reasonable grounds for believing interferes in an improper or unsafe manner or is calculated to interfere in an improper or unsafe manner with the efficient supply of electricity to any other consumer, the Municipality may, with or without notice, disconnect the electricity supply but such supply shall be restored as soon as the cause for the disconnection has been permanently remedied or removed. The fee as prescribed by the Municipality for the disconnection and reconnection shall be paid by the consumer before the electricity supply is restored, unless it can be shown that the consumer did not use or deal with the electricity in an improper or unsafe manner.
16. **Electricity tariffs and fees** - Copies of charges and fees may be obtained free of charge at the offices of the Municipality.
17. **Deposits** - The Municipality reserves the right to require the consumer to deposit a sum of money as security in payment of any charges which are due or may become due to the Municipality. The amount of the deposit in respect of each electricity installation shall be determined by the Municipality, and each such deposit may be increased if the Municipality deems the deposit held to be inadequate. Such deposit shall not be regarded as being in payment or part payment of any accounts due for the supply of electricity for the purpose of obtaining any discount provided for in the electricity tariff referred to in this by-law. On cessation of the supply of electricity, the amount of such deposit, free of any interest, less any payments due to the Municipality shall be refunded to the consumer.
18. **Payment of charges** -
 - (1) The consumer shall be liable for all charges listed in the prescribed tariff for the electricity service as approved by the Municipality. A copy of the prescribed tariff is obtainable free of charge from the Municipality.
 - (2) All accounts shall be deemed to be payable when issued by the Municipality and each account shall, on its face, reflect the due date and a warning indicating that the supply of electricity may be disconnected should the charges in respect of such supply remain unpaid after the due date.
 - (3) An error or omission in any account or failure to render an account shall not relieve the consumer of his/her obligation to pay the correct amount due for electricity supplied to the premises and the onus shall be on the consumer to satisfy himself/herself that the account rendered is in accordance with the prescribed tariff of charges in respect of electricity supplied to the premises.
 - (4) Where a duly authorized official of the Municipality has visited the premises for the purpose of disconnecting the supply of electricity in terms of subsection (2) and he/she is obstructed or prevented from effecting such disconnection, the prescribed fee shall become payable for each visit necessary for the purpose of such disconnection.
 - (5) After disconnection for non-payment of an account, the prescribed fees and any amounts due for electricity consumed shall be paid before the electricity supply is re-connected.
19. **Interest on overdue accounts** - The Municipality may charge interest on accounts which are not paid by the due date appearing on the account, at an interest rate as approved by the Municipality from time to time.

20. Principles for the resale of electricity –

- (1) Unless otherwise authorized by the Municipality, no person shall sell or supply electricity, supplied to his/her premises under an agreement with the Municipality, to any other person or persons for use on any other premises, or permit or suffer such resale or supply to take place. If electricity is resold for use upon the same premises, the electricity resold shall be measured by a submeter of a type which has been approved by Standards South Africa and supplied, installed and programmed in accordance with the standards of the Municipality.
- (2) The tariff, rates and charges at which and the conditions of sale under which electricity is thus resold shall not be less favourable to the purchaser than those that would have been payable and applicable had the purchaser been supplied directly with electricity by the Municipality. Every reseller shall furnish the purchaser with monthly accounts that are at least as detailed as the relevant billing information details provided by the Municipality to its electricity consumers.

21. Right to disconnect supply –

- (1) The Municipality shall have the right to disconnect the supply of electricity to any premises if the person liable to pay for such supply fails to pay any charge due to the Municipality in connection with any supply of electricity which he/she may at any time have received from the Municipality in respect of such premises, or, where any of the provisions of this by-law and/or the Regulations are being contravened, provided the Municipality has given the person 14 (fourteen) days notice to remedy his/her default and the person has failed to remedy such default after notice has been given, or, in the case of a grave risk to person or property, or as envisaged in terms of Section 26 of this by-law, without notice. After disconnection for non-payment of accounts or the improper or unsafe use of electricity, the fee as prescribed by the Municipality shall be paid.
- (2) In the case where an installation has been illegally reconnected on a consumer's premises after having been previously legally disconnected by the Municipality, or in the case where the Municipality's electrical equipment has been tampered with to prevent the full registration of consumption by the meter, the electricity supply may be physically removed from those premises.

22. Non-liability of the Municipality- The Municipality shall take all precautions to procure and maintain suitable plant for the distribution of electricity calculated to secure to its consumers a constant supply of electricity and shall procure efficient technical staff to control such plant, but the Municipality does not guarantee that the same will always be maintained and the Municipality shall not be liable for damages, expenses or costs caused to the Customer from any interruption in the supply, variation of voltage, variation of frequency, any failure to supply a balanced three-phase current or failure to supply electricity unless the said interruption or failure is due to the negligence of the Municipality in failing to carry out its obligation aforesaid. In the event that the Municipality should be liable for damage caused to the Customer as a result of any such reduction in load or any interruption in the supply, or any variation of voltage or frequency or any failure to supply electricity, such liability shall be limited to direct damage only.

23. Leakage of electricity - Under no circumstances shall any rebate be allowed on the account for electricity supplied and metered in respect of electricity wasted owing to leakage or any other fault in the electrical installation.

24. Failure of supply – The Municipality does not undertake to attend to a failure of supply of electricity due to a fault in the electrical installation of the consumer, except when such failure is due to the operation of the service protective device of the Municipality. When any failure of supply of electricity is found to be due to a fault in the electrical installation of the consumer or to the faulty operation of apparatus used in connection therewith, the Municipality shall have the right to charge the consumer

the fee as prescribed by the Municipality for each restoration of the supply of electricity in addition to the cost of making good or repairing any damage which may have been done to the service main and meter by such fault or faulty operation as aforesaid.

- 25. Seals of the Municipality** - The meter, service protective devices and all apparatus belonging to the Municipality shall be sealed or locked by a duly authorized official of the Municipality, and no person not being an official of the Municipality duly authorized thereto shall in any manner or for any reason whatsoever remove, break, deface, or tamper or interfere with such seals or locks.
- 26. Tampering with service connection or supply mains -**
- (1) No person shall in any manner or for any reason whatsoever tamper or interfere with any meter or metering equipment or service connection or service protective device or supply mains or any other equipment of the Municipality.
 - (2) Where prima facie evidence exists of a consumer and/or any person having contravened sub-section(1), the Municipality shall have the right to disconnect the supply of electricity immediately and without prior notice to the consumer. The person shall be liable for all fees and charges levied by the Municipality for such disconnection.
 - (3) Where a consumer and/or any person has contravened sub-section(1) and such contravention has resulted in the meter recording less than the true consumption, the Municipality shall have the right to recover from the consumer the full cost of his/her estimated consumption.
- 27. Protection of Municipality's supply mains -**
- (1) No person shall, except with the consent of the Municipality and subject to such conditions as may be imposed –
 - (a) construct, erect or lay, or permit the construction, erection or laying of any building, structure or other object, or plant trees or vegetation over or in such a position or in such a manner as to interfere with or endanger the supply mains
 - (b) excavate, open up or remove the ground above, next to, under or near any part of the supply mains
 - (c) damage, endanger, remove or destroy, or do any act likely to damage, endanger or destroy any part of the supply mains
 - (d) make any unauthorized connection to any part of the supply mains or divert or cause to be diverted any electricity there from.
 - (e) The owner or occupier shall limit the height of trees or length of projecting branches in the proximity of overhead lines or provide a means of protection which in the opinion of the Municipality will adequately prevent the tree from interfering with the conductors should the tree or branch fall or be cut down. Should the owner fail to observe this provision the Municipality shall have the right, after prior written notification, or at any time in an emergency, to cut or trim the trees or other vegetation in such a manner as to comply with this provision and shall be entitled to enter the property for this purpose.
 - (2) The Municipality may subject to obtaining an order of court demolish, alter or other wise deal with any building, structure or other object constructed, erected or laid in contravention with this by-law.
 - (3) The municipality may in the case of an emergency or disaster remove anything damaging, obstructing or endangering or likely to damage, obstruct, endanger or destroy any part of the electrical distribution system.

28. **Prevention of tampering with service connection or supply mains** - If the Municipality decides that it is necessary or desirable to take special precautions in order to prevent tampering with any portion of the supply mains, service connection or service protective device or meter or metering equipment, the consumer shall either supply and install the necessary protection or pay the costs involved where such protection is supplied by the Municipality.
29. **Unauthorized connections** - No person other than a person specifically authorized thereto by the Municipality in writing shall directly or indirectly connect, attempt to connect or cause or permit to be connected any electrical installation or part thereof to the supply mains or service connection.
30. **Unauthorized reconnections** -
- (1) No person other than a person specifically authorized thereto by the Municipality in writing shall reconnect, attempt to reconnect or cause or permit to be reconnected to the supply mains or service connection any electrical installation or installations which has or have been disconnected by the Municipality.
 - (2) Where the supply of electricity that has previously been disconnected is found to have been reconnected, the consumer using the supply of electricity shall be liable for all charges for electricity consumed between the date of disconnection and the date the electricity supply was found to be reconnected and any other charges raised in this regard. Furthermore, the Municipality reserves the right to remove part or all of the supply equipment until such time as payment has been received in full. In addition, the consumer will be responsible for all the costs associated with the reinstatement of such supply equipment.
31. **Temporary disconnection and reconnection** -
- (1) The Municipality shall, at the request of the consumer, temporarily disconnect and reconnect the supply of electricity to the consumer's electrical installation upon payment of the fee as prescribed by the Municipality for each such disconnection and subsequent reconnection.
 - (2) In the event of the necessity arising for the Municipality to effect a temporary disconnection and reconnection of the supply of electricity to a consumer's electrical installation and the consumer is in no way responsible for bringing about this necessity, the Municipality shall waive payment of the fee hereinbefore referred to.
 - (3) The Municipality may only under exceptional circumstances temporarily disconnect the supply of electricity to any premises without notice, for the purpose of effecting repairs or carrying out tests or for any other legitimate purpose. In all other instances adequate notice shall be given.
32. **Temporary supplies** - It shall be a condition of the giving of any temporary supply of electricity, as defined in this by-law, that, if such supply is found to interfere with the efficient and economical supply of electricity to other consumers, the Municipality shall have the right, with notice, or under exceptional circumstances without notice, to terminate such temporary supply at any time and, the Municipality shall not be liable for any loss or damage occasioned by the consumer by such termination.
33. **Temporary work** - Electrical installations requiring a temporary supply of electricity shall not be connected directly or indirectly to the supply mains except with the special permission in writing of the Municipality. Full information as to the reasons for and nature of such temporary work shall accompany the application for the aforesaid permission, and the Municipality may refuse such permission or may grant the same upon such terms and conditions as it may appear desirable and necessary.

34. Load reduction -

- (1) At times of peak load, or in an emergency, or when, in the opinion of the Municipality, it is necessary for any reason to reduce the load on the electricity supply system of the Municipality, the Municipality may without notice interrupt and, for such period as the Municipality may deem necessary, discontinue the electricity supply to any consumer's electrically operated thermal storage water heater or any specific appliance or the whole installation. The Municipality shall not be liable for any loss or damage directly or consequentially due to or arising from such interruption and discontinuation of the electricity supply.
- (2) The Municipality may install upon the premises of the consumer such apparatus and equipment as may be necessary to give effect to the provisions of subsection (1), and any duly authorized official of the Municipality may at any reasonable time enter any premises for the purpose of installing, inspecting, testing adjusting and/or changing such apparatus and equipment.
- (3) Notwithstanding the provisions of sub-section (2), the consumer or the owner, as the case may be, shall, when installing an electrically operated water storage heater, provide such necessary accommodation and wiring as the Municipality may decide to facilitate the latter installation of the apparatus and equipment referred to in sub-section (2).

35. Medium and low voltage switchgear and equipment -

- (1) In cases where a supply of electricity is given at either medium or low voltage, the supply and installation of the switchgear, cables and equipment forming part of the service connection shall, unless otherwise approved by the Municipality or any duly authorized official of the Municipality, be paid for by the consumer.
- (2) In the case of a medium voltage supply of electricity, all such equipment shall be approved by any duly authorized official of the Municipality and installed by or under the supervision of any duly authorized official of the Municipality.
- (3) No person shall operate medium voltage switchgear without the written authority of the Municipality. (open, close, isolate, link or earth)
- (4) All earthing and testing of medium voltage equipment linked to the Municipality's network shall be conducted by or under the supervision of an employee of the Municipality.
- (5) In the case of a low voltage supply of electricity, the consumer shall provide and install a low voltage main switch and/or any other equipment required by the Municipality or any duly authorized official of the Municipality.
- (6) In the case of a medium voltage supply of electricity, where the consumer has medium voltage switchgear installed, the Municipality shall be advised of the competent person appointed by the consumer in terms of the Regulations, and of any changes made to such appointments.
- (7) In the case of a low voltage supply of electricity, the consumer shall provide and install a low voltage main switch and/or any other equipment required by the Municipality or any duly authorized official of the Municipality.

- 36. Substation accommodation -** The Municipality may, on such conditions as may be deemed fit by the Municipality or any duly authorized official of the Municipality, require the owner to provide and maintain accommodation which shall constitute a substation and which shall consist of a separate room or rooms to be used exclusively for the purpose of housing medium voltage cables and switchgear, transformers, low voltage cables and switchgear and other equipment necessary for the supply of electricity requested by the applicant. The accommodation shall be

situated at a point to which free, adequate and unrestricted access is available at all times for purposes connected with the operation and maintenance of the equipment.

The Municipality reserves the right to supply its own networks from its own equipment installed in such accommodation, and if additional accommodation is required by the Municipality, such additional accommodation shall be provided by the applicant at the cost of the Municipality.

37. Wiring diagram and specification -

- (1) When more than one electrical installation or electricity supply from a common main or more than one distribution board or meter is required for any building or block of buildings, the wiring diagram of the circuits starting from the main switch and a specification shall on request be supplied to the Municipality in duplicate for approval before the work commences.
- (2) Where an electrical installation is to be supplied from a substation on the same premises on which the current is transformed from high voltage, or from one of the substations of the Municipality through mains separate from the general distribution system, a complete specification and drawings for the plant to be installed by the consumer shall, if so required, be forwarded to the Municipality for approval before any material in connection therewith is ordered.

38. Standby supply - No person shall be entitled to a standby supply of electricity from the Municipality for any premises having a separate source of electricity supply except with the written consent of the Municipality and subject to such terms and conditions as may be laid down by the Municipality.

39. Consumer's emergency standby supply equipment –

- (1) No emergency standby equipment provided by a consumer in terms of any Regulations or for his/her own operational requirements shall be connected to any installation without the prior written approval of the Municipality. Application for such approval shall be made in writing and shall include a full specification of the equipment and a wiring diagram. The standby equipment shall be so designed and installed that it is impossible for the Municipality's supply mains to be energized by means of a back-feed from such equipment. The consumer shall be responsible for providing and installing all such protective equipment.
- (2) Where by special agreement with the Municipality, the consumer's standby generating equipment is permitted to be electrically coupled to, and run in parallel with the Municipality's supply mains, the consumer shall be responsible for providing, installing and maintaining all the necessary synchronizing and protective equipment required for such safe parallel operation, to the satisfaction of the Municipality.

40. Circular letters - The Municipality may from time to time issue Circulars detailing the requirements of the Municipality regarding matters not specifically covered in the Regulations or this by-law but which are necessary for the safe, efficient operation and management of the supply of electricity.

CHAPTER 3

RESPONSIBILITIES OF CONSUMERS

41. Consumer to erect and maintain electrical installation - Any electrical installation connected or to be connected to the supply mains, and any additions or alterations thereto which may be made from time to time, shall be provided and erected and maintained and kept in good order by the consumer at his/her own expense and in accordance with this by-law and the Regulations.

42. Fault in electrical installation -

- (1) If any fault develops in the electrical installation, which constitutes a hazard to persons, livestock or property, the consumer shall immediately disconnect the electricity supply. The consumer shall without delay give notice thereof to the Municipality and shall immediately take steps to remedy the fault.
- (2) The Municipality may require the consumer to reimburse it for any expense to which it may be put in connection with a fault in the electrical installation.

43. Discontinuance of use of supply - In the event of a consumer desiring to discontinue using the electricity supply, he/she shall give at least two full working days' notice in writing of such intended discontinuance to the Municipality, failing which he/she shall remain liable for all payments due in terms of the tariff for the supply of electricity until the expiration of two full working days after such notice has been given.**44. Change of occupier -**

- (1) A consumer vacating any premises shall give the Municipality not less than two full working days' notice in writing of his/her intention to discontinue using the electricity supply, failing which he/she shall remain liable for such supply.
- (2) If the person taking over occupation of the premises desires to continue using the electricity supply, he/she shall make application in accordance with the provisions of section 5 of this by-law, and if he/she fails to make application for an electricity supply after taking occupation of the premises, the supply of electricity shall be disconnected, and he/she shall be liable to the Municipality for the electricity supply from the date of occupation till such time as the supply is so disconnected.
- (3) Where premises are fitted with pre-payment meters any person occupying the premises at that time shall be deemed to be the consumer. Until such time as an application is made by this person for a supply of electricity, in terms of section 5 of this by-law, he/she shall be liable for all charges and fees owed to the Municipality for that metering point as well as any outstanding charges and fees whether accrued by that person or not.

45. Service apparatus -

- (1) The consumer shall be liable for all costs to the Municipality arising from damage to or loss of any metering equipment, service protective device, service connection or other apparatus on the premises, unless such damage or loss is shown to have been occasioned by an Act of God or an act or omission of an employee of the Municipality or caused by an abnormality in the supply of electricity to the premises.
- (2) If, during a period of disconnection of an installation from the supply mains, the service main, metering equipment or any other service apparatus, being the property of the Municipality and having been previously used, have been removed without its permission or have been damaged so as to render reconnection dangerous, the owner or occupier of the premises, as the case may be, during such period shall bear the cost of overhauling and/or replacing such equipment.
- (3) Where there is a common metering position, the liability detailed in subsection (1) shall devolve on the owner of the premises.
- (4) The amount due in terms of subsection (1) shall be evidenced by a certificate from the Municipality which shall be final and binding.

CHAPTER 4**SPECIFIC CONDITIONS OF SUPPLY****46. Service connection -**

- (1) The consumer shall bear the cost of the service connection, as approved by the Municipality.
- (2) Notwithstanding the fact that the consumer bears the cost of the service connection, ownership of the service connection, laid or erected by the Municipality, shall vest in the Municipality, the Municipality shall be responsible for the maintenance of such service connection up to the point of supply. The consumer shall not be entitled to any compensation from the Municipality in respect of such service connection.
- (3) The work to be carried out by the Municipality at the cost of the consumer for a service connection to the consumer's premises shall be determined by the Municipality or any duly authorized official of the Municipality.
- (4) A service connection shall be laid underground, whether the supply mains are laid underground or erected overhead, unless an overhead service connection is specifically required by the Municipality.
- (5) The consumer shall provide, fix and/or maintain on his/her premises such ducts, wireways, trenches, fastenings and clearance to overhead supply mains as may be required by the Municipality for the installation of the service connection.
- (6) The conductor used for the service connection shall have a cross-sectional area according to the size of the electrical supply but shall not be less than 10 mm² (copper), and all conductors shall have the same cross-sectional area, unless otherwise approved by any duly authorized official of the Municipality. The earth conductor shall be a separate bare copper wire unless otherwise approved by any duly authorized official of the Municipality.
- (7) Unless otherwise approved, the Municipality shall only provide one service connection to each registered erf. In respect of two or more premises belonging to one owner and situated on adjacent erven, a single bulk supply of electricity may be made available provided the erven are consolidated or notarially tied.
- (8) Any covers of a wireway carrying the supply circuit from the point of supply to the metering equipment shall be made to accept the seals of the Municipality.
- (9) Within the meterbox, the service conductor or cable, as the case may be, shall terminate in an unobscured position and the conductors shall be visible throughout their length when cover plates, if present, are removed.
- (10) In the case of blocks of buildings occupied by a number of individual consumers, separate wireways and conductors or cables shall be laid from the common metering room or rooms to each individual consumer in the blocks of buildings. Alternatively, if trunking is used, the conductors of the individual circuits shall be clearly identified (tied together every 1,5m) throughout their length.

47. Metering accommodation -

- (1) The consumer shall, if required by the Municipality or any duly authorized official of the Municipality, provide accommodation in an approved position, the meter board and adequate conductors for the Municipality's metering equipment, service apparatus and protective devices. Such accommodation and protection shall be provided and maintained, to the satisfaction of the

Municipality, at the cost of the consumer or the owner, as the circumstances may demand, and shall be situated, in the case of credit meters, at a point to which free and unrestricted access shall be had at all reasonable hours for the reading of meters but at all times for purposes connected with the operation and maintenance of the service equipment. Access at all reasonable hours shall be afforded for the inspection of prepayment meters.

- (2) Where submetering equipment is installed, accommodation separate from the Municipality's metering equipment shall be provided.
- (3) The consumer or, in the case of a common meter position, the owner of the premises shall provide adequate electric lighting in the space set aside for accommodating the metering equipment and service apparatus.
- (4) Where in the opinion of the Municipality the position of the meter, service connection, protective devices or main distribution board is no longer readily accessible or becomes a course of danger to life or property or in any way becomes unsuitable, the consumer shall remove it to a new position, and the cost of such removal, which shall be carried out with reasonable dispatch, shall be borne by the consumer.
- (5) The accommodation for the Municipality's metering equipment and protective devices may, if approved, include the consumer's main switch and main protective devices. No apparatus other than that used in connection with the supply of electricity and use of electricity shall be installed or stored in such accommodation unless approved.

CHAPTER 5

SYSTEMS OF SUPPLY

48. **Load requirements** - Alternating current supplies shall be given as prescribed by the Electricity Act, 1987 (Act 41 of 1987) as amended, and in the absence of a quality of supply agreement, as set out in applicable standard specification.
49. **Load limitations** -
 - (1) Where the estimated load, calculated in terms of the safety standard, does not exceed 19 kVA, the electrical installation shall be arranged for a two-wire single-phase supply of electricity, unless otherwise approved by the Municipality or any duly authorised official of the Municipality.
 - (2) Where a three-phase four-wire supply of electricity is provided, the load shall be approximately balanced over the three phases but the maximum out-of-balance load shall not exceed 15kVA, unless otherwise approved by the Municipality or any duly authorised official of the Municipality.
 - (3) No current-consuming appliance, inherently single phase in character, with a rating which exceeds 15kVA shall be connected to the electrical installation without the prior approval of the Municipality.
50. **Interference with other persons' electrical equipment** -
 - (1) No person shall operate electrical equipment having load characteristics which, singly or collectively, give rise to voltage variations, harmonic currents or voltages, or unbalanced phase currents which fall outside the applicable standard specification.
 - (2) The assessment of interference with other persons' electrical equipment shall be carried out by means of measurements taken at the point of common coupling.
 - (3) Should it be established that undue interference is in fact occurring, the consumer shall, at his/her own cost, install the necessary equipment to filter out the interference and prevent it reaching the supply mains.

51. Supplies to motors –

Unless otherwise approved by the Municipality or any duly authorised official of the Municipality the rating of motors shall be limited as follows:

(1) Limited size for low voltage motors –

The rating of a low voltage single-phase motor shall be limited to 2kW and/or the starting current shall not exceed 70A.

All motors exceeding these limits shall be wound for three phases at low voltage or such higher voltage as may be required.

(2) Maximum starting and accelerating currents of three-phase alternating current motors.-

The starting current of three-phase low voltage motors permitted shall be related to the capacity of the consumer's service connection, as follows:

Insulated service cable, size in mm ² , copper equivalent mm ²	Maximum permissible starting current A	Maximum motor rating in kW		
		Direct on line (6x full-load current) kW	Star/Delta (2,5 x full-load current) kW	Other means (1,5 x full-load current) kW
16	72	6	13,5	23
25	95	7,5	18	30
35	115	9	22	36,5
50	135	10	25	45
70	165	13	31	55
95	200	16	38	67
120	230	18	46	77
150	260	20	52	87

(3) Consumers supplied at medium voltage –

In an installation supplied at medium voltage the starting current of a low voltage motor shall be limited to 1,5 times the rated full-load current of the transformer supplying such a motor. The starting arrangement for medium voltage motors shall be subject to the approval of the Municipality.

52. Power factor -

(1) If required by the Municipality, the power factor of any load shall be maintained within the limits 0,85 lagging and 0,9 leading.

(2) Where, for the purpose of complying with sub-section (1), it is necessary to install power factor corrective devices, such corrective devices shall be connected to the individual appliance terminals unless the correction of the power factor is automatically controlled.

(3) The consumer shall, at his/her own cost, install such corrective devices.

53. Protection - Electrical protective devices for motors shall be of such a design as effectively to prevent sustained overcurrent and single phasing, where applicable.

CHAPTER 6**MEASUREMENT OF ELECTRICITY****54. Metering –**

- (1) The Municipality shall, at the consumer's cost in the form of a direct charge or prescribed fee, provide, install and maintain appropriately rated metering equipment at the point of metering for measuring the electricity supplied.
- (2) Except in the case of prepayment meters, the electricity used by a consumer during any metering period shall be ascertained by the reading of the appropriate meter or meters supplied and installed by the Municipality and read at the end of such period except where the metering equipment is found to be defective, or the Municipality invokes the provisions of section 58(2) of this by-law, in which case the consumption for the period shall be estimated.
- (3) Where the electricity used by a consumer is charged at different tariff rates, the consumption shall be metered separately for each rate.
- (4) The Municipality reserves the right to meter the supply to blocks of shops and flats, tenement-houses and similar buildings for the buildings as a whole, or for individual units, or for groups of units.
- (5) No alterations, repairs or additions or electrical connections of any description shall be made on the supply side of the point of metering unless specifically approved in writing by the Municipality or any duly authorized official of the Municipality.

55. Accuracy of metering -

- (1) A meter shall be conclusively presumed to be registering accurately if its error, when tested in the manner prescribed in sub-section (5) hereof, is found to be within the limits of error as provided for in the applicable standard specifications.
- (2) The Municipality shall have the right to test its metering equipment. If it is established by test or otherwise that such metering equipment is defective, the Municipality shall -
 - (i) in the case of a credit meter, adjust the account rendered;
 - (ii) in the case of prepayment meters, (a) render an account where the meter has been under-registering, or (b) issue a free token where the meter has been over-registering; in accordance with the provisions of sub-section (6).
- (3) The consumer shall be entitled to have the metering equipment tested by the Municipality on payment of the prescribed fee. If the metering equipment is found not to comply with the system accuracy requirements as provided for in the applicable standard specifications, an adjustment in accordance with the provisions of sub-sections (2) and (6) shall be made and the aforesaid fee shall be refunded.
- (4) In case of a dispute, the consumer shall have the right at his/her own cost to have the metering equipment under dispute tested by an approved independent testing authority, and the result of such test shall be final and binding on both parties.
- (5) Meters shall be tested in the manner as provided for in the applicable standard specifications.

- (6) When an adjustment is made to the electricity consumption registered on a meter in terms of sub-section (2) or (3), such adjustment shall either be based on the percentage error of the meter as determined by the test referred to in sub-section (5) or upon a calculation by the Municipality from consumption data in its possession. Where applicable, due allowance shall be made, where possible, for seasonal or other variations which may affect the consumption of electricity.
- (7) When an adjustment is made as contemplated in sub-section (6), the adjustment may not exceed a period of six months preceding the date on which the metering equipment was found to be inaccurate. The application of this section does not bar a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.
- (8) Where the actual load of a consumer differs from the initial estimated load provided for under section 8(1) to the extent that the Municipality deems it necessary to alter or replace its metering equipment to match the load, the costs of such alteration or replacement shall be borne by the consumer.
- (9)
 - (a) Prior to the Municipality making any upward adjustment to an account in terms of sub-section (6), the Municipality shall -
 - (i) notify the consumer in writing of the monetary value of the adjustment to be made and the reasons therefore;
 - (ii) in such notification provide sufficient particulars to enable the consumer to submit representations thereon, and
 - (iii) call upon the consumer in such notice to provide it with reasons in writing, if any, within 21 days or such longer period as the Municipality may permit why his/her account should not be adjusted as notified.
 - (b) Should the consumer fail to make any representations during the period referred to in sub-section 9(a)(iii) the Municipality shall be entitled to adjust the account as notified in sub-section 9(a)(i).
 - (c) The Municipality shall consider any reasons provided by the consumer in terms of sub-section (9)(a) and shall, if satisfied that a case has been made out therefore, adjust the account appropriately.
 - (d) If a duly authorized official of the Municipality decides after having considered the representation made by the consumer that such representations do not establish a case warranting an amendment to the monetary value established in terms of sub-section (6), the Municipality shall be entitled to adjust the account as notified in terms of sub-section 9(a)(i), subject to the consumer's right to appeal the decision of the official in terms of section 62 of the Municipal Systems Act, 2000.

56. Reading of credit meters -

- (1) Unless otherwise prescribed, credit meters shall normally be read at intervals of one month and the fixed or minimum charges due in terms of the tariff shall be assessed accordingly. The Municipality shall not be obliged to effect any adjustments to such charges.
- (2) If for any reason the credit meter cannot be read, the Municipality may render an estimated account. The electrical energy consumed shall be adjusted in a subsequent account in accordance with the electrical energy actually consumed.

- (3) When a consumer vacates a property and a final reading of the meter is not possible, an estimation of the consumption may be made and the final account rendered accordingly.
- (4) If a special reading of the meter is desired by a consumer, this may be obtained upon payment of the prescribed fee.
- (5) If any calculating, reading or metering error is discovered in respect of any account rendered to a consumer, the error shall be corrected in subsequent accounts. Any such correction shall only apply in respect of accounts for a period of 6 months preceding the date on which the error in the accounts was discovered, and shall be based on the actual tariffs applicable during the period. The application of this section does not prevent a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.

57. Prepayment metering -

- (1) No refund for the amount tendered for the purchase of electricity credit shall be given at the point of sale after initiation of the process by which the prepayment meter token is produced.
- (2) Copies of previously issued tokens for the transfer of credit to the prepayment meter may be issued at the request of the consumer.
- (3) When a consumer vacates any premises where a prepayment meter is installed, no refund for the credit remaining in the meter shall be made to the consumer by the Municipality.
- (4) The Municipality shall not be liable for the reinstatement of credit in a prepayment meter lost due to tampering with, or the incorrect use or the abuse of, prepayment meters and/or tokens.
- (5) Where a consumer is indebted to the Municipality for electricity consumed or to the Municipality for any other service supplied by the Municipality (including rates) or for any charges previously raised against him/her in connection with any service rendered, the Municipality may deduct a percentage from the amount tendered to offset the amount owing to the Municipality, as set out in the section 5 agreement for the supply of electricity.
- (6) The Municipality may, at its discretion, appoint vendors for the sale of credit for prepayment meters and shall not guarantee the continued operation of any vendor.

CHAPTER 7

ELECTRICAL CONTRACTORS

58. Additional requirement for Contractors - In addition to the requirements of the Regulations the following requirements shall apply:

- (1) Where an application for a new or increased supply of electricity has been made to the Municipality, any duly authorized official of the Municipality may at his/her discretion accept notification of the completion of any part of an electrical installation, the circuit arrangements of which permit the electrical installation to be divided up into well-defined separate portions, and such part of the electrical installation may, at the discretion of any duly authorized official of the Municipality, be inspected, tested and connected to the supply mains as though it were a complete installation.
- (2) The examination, test and inspection that may be carried out at the discretion of the Municipality or any duly authorized official of the Municipality in no way relieves the electrical contractor/accredited person or the user or lessor, as the case may be, from his/her responsibility for any

defect in the installation. Such examination, test and inspection shall not be taken under any circumstances (even where the electrical installation has been connected to the supply mains) as indicating or guaranteeing in any way that the electrical installation has been carried out efficiently with the most suitable materials for the purpose or that it is in accordance with this by-law or the safety standard, and the Municipality shall not be held responsible for any defect or fault in such electrical installation.

59. **Indemnity** - The Municipality shall not be held responsible for the work done by the electrical contractor/accredited person on a consumer's premises and shall not in any way be responsible for any loss or damage which may be occasioned by fire or by any accident arising from the state of the wiring on the premises.

CHAPTER 8

COST OF WORK

60. **Cost related to deviation** - The Municipality may repair and make good any damage done in contravention of this by-law or resulting from a contravention of this by-law. The cost of any such work carried out by the Municipality which was necessary due to the contravention of this by-law, shall be to the account of the person who acted in contravention of this by-law.

CHAPTER 9

PENALTIES

61. (1) Any person who contravenes any of the provisions of sections 5, 7, 13, 14, 20, 25, 26, 27, 29 and 30 of this by-law shall be guilty of an offence.
- (2) Any person who continues to commit an offence after notice has been served on him/her to cease committing such offence or after he/she has been convicted of such offence shall be guilty of a continuing offence.
- (3) Any person convicted of an offence under this by-law for which no penalty is expressly provided shall be 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 shall be liable to recompense the Municipality for any loss or damage suffered or sustained by it in consequence of such breach.

CHAPTER 10

REPEAL OF BY-LAWS

62. The Marble Hall Standard Electricity By-law as amended (Administrator's notice 1959 of 11 September 1985) are hereby repealed as a whole.

CHAPTER 11

SHORT TITLE AND COMMENCEMENT

63. These by-laws shall be called the Ephraim Mogale Local Municipality Electricity Supply By-laws, and come into effect on date of publication.

LOCAL AUTHORITY NOTICE 222**EPHRAIM MOGALE LOCAL MUNICIPALITY
WASTE MANAGEMENT BYLAWS**

Be it enacted by the Council of the Ephraim Mogale Local Municipality, in terms of Section 156(2) of the Constitution of the Republic of South Africa, 1996, (Act 108 of 1996) read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), as follows:

NO.	SUBJECT	PAGE
CHAPTER 1: DEFINITIONS, INTERPRETATION, PRINCIPLES AND OBJECTS		
1.	Definitions	1-4
2.	Principles	4-5
3.	Main objects	5
4.	Duty of care	5-6
CHAPTER 2: WASTE MANAGEMENT PLANNING, POLICY AND STRATEGY		
5.	Development of local waste plans	6-7
6.	Scope, preparation and amendment of the local waste plans	7-8
7.	Establishment of an information system	8
8.	Purpose of the information system	8-9
9.	Provision of information	9
10.	Manner of engaging in waste minimization initiatives	9
CHAPTER 3: COUNCIL SERVICES		
11.	Duty to provide access to Council services	9-10
12.	Provision of Council services	10-11
13.	Obligation of generators of domestic waste, business waste and dailies	11-13
14.	Prescribed fee for Council services	13
15.	Liability to pay for Council services	13
CHAPTER 4: COMMERCIAL SERVICES		
16.	Provision of commercial services by licensee	13
17.	Provision for Council co-ordination of waste disposal	13
18.	Storage of business, industrial and recyclable waste	13-14
19.	Collection and disposal of industrial, business and recyclable waste	14
20.	Storage, collection and disposal of garden waste and bulky waste	14-15
21.	Generation of building waste	15
22.	Storage of building waste	15
23.	Collection and disposal of building waste	15
24.	Generation of special industrial, hazardous or health care risk waste	16
25.	Storage of special industrial, hazardous or health care risk waste	16
26.	Collection and disposal of special industrial, hazardous or health care risk waste	16-17
CHAPTER 5: TRANSPORTATION		
27.	Transportation of waste	17
28.	Disposal of waste	17-18
CHAPTER 6: SERVICE PROVIDERS		
29.	Agreement, delegation and customer charter	18-19
CHAPTER 7: LICENCES		
30.	Registration requirement	19

31.	Licence requirement	20
32.	Application for licence	20
33.	Licence terms and conditions	20-21
34.	Prohibited conduct	21-22
35.	Transitional provisions and exemptions	22
CHAPTER 8: LITTERING, DUMPTING AND ABANDONED ARTICLES		
36.	Duty to provide facilities for litter	22-23
37.	Prohibition of littering	23
38.	Prohibition of dumping an abandoning articles	23
CHAPTER 9: ADMINISTRATIVE ENFORCEMENT PROVISION		
39.	Appointment of authorized officials	24
40.	Powers to execute work and inspect vehicles and premises	24-25
41.	Powers to question	25
42.	Supervision of licensee	25-26
43.	Supervision of owners and occupiers	26
44.	Enforcement notices	26-27
45.	Infringement notices	27
46.	Complaints	27-28
47.	Representations	28-29
CHAPTER 10: JUDICIAL ENFORCEMENT PROVISIONS		
48.	Service of documents and process	29
49.	Service of notices	29
50.	Trial	29
51.	Offences and penalties	29-30
CHAPTER 11: GENERAL PROVISIONS		
52.	Ownership	30
53.	Consolidation of by-laws	30
54.	Repeal of bylaws	30
55.	Date of commencement	30
SCHEDULE 1: LEGISLATION REPEALED		
Marble Hall Town Council Solid Waste and Sanitary By-Law; Administrators Notice no. 1171 (16 August 1978)		

CHAPTER 1: DEFINITIONS, INTERPRETATION, PRINCIPLES AND OBJECTS**1. Definitions**

For the purposes of this by-law unless the context otherwise indicates:

"Agriculture and farm waste" includes all waste produced on farms or as part of agricultural processes

"Approved", in the context of bins, bin liners, containers, receptacles and wrappers means approved by the Council or service provider for the collection and storage of waste;

"Bin" means an approved receptacle for the storage of waste that may be supplied by the Council or the owner of the premises in terms of these By-laws;

"Bin liner" means a plastic bag as prescribed by the Council which may be placed inside a container with a conserving capacity not exceeding 0,1 m³;

"Building waste" includes all waste produced during the construction, alteration, repair or demolition of any structure, and includes building rubble, earth, vegetation and rock displaced during such construction, alteration, repair or demolition;

"Bulky waste" means business waste or domestic waste which by virtue of its mass, shape, size or quantity is inconvenient to remove in the routine door-to-door Council service provided by the Council or service provider;

"Business waste" means waste, other than hazardous waste, healthcare risk waste, building waste, industrial waste, garden waste, bulky waste and special industrial waste, generated on premises used for non-residential purposes;

"Collection" means the process where waste is removed from the site or place where it was generated:

"Commercial services" means any service, excluding Council services, relating or connected to accumulating, collecting, managing, recycling, sorting, storing, treating, transporting, disposing, buying or selling of waste or any other manner of handling waste;

"Container" means a refuse container for the temporary storage of waste as prescribed and approved by the Council and which may be supplied by the Council at a prescribed tariff or at ruling prices or at hiring charges;

"Containment" means the safe storage of waste at the site or place where it was generated in such a manner that it eliminates odours, nuisances, negative environmental impacts, and dangers to human health and well being;

"Council" means the Ephraim Mogale Local Municipal Council within the meaning of Section 157(2) and (3) of the Constitution of the Republic of South Africa'

"Council services" means a municipal service relating to the collection of waste, including domestic waste and business waste provided exclusively by the Council or service providers in accordance with the provisions of the Systems Act;

"Domestic waste" means waste generated on premises used solely for residential purposes and purposes of public worship, including halls or other buildings used for religious

purposes, but does not include business waste, building waste, garden waste or bulky waste;

"Dump" means placing waste anywhere other than an approved receptacle or a place designated as a waste handling facility or waste disposal facility by the Council or service provider;

"Environment" means the surroundings within which humans exist, made up of –

- (a) The land, water and atmosphere of the earth,
- (b) Micro-organisms, plant and animal life,
- (c) Any part or combination of (a) and (b) and the interrelationships among and between them, and
- (d) The physical, chemical aesthetic and cultural properties and conditions of the foregoing that influence human health and well being;

"Environmental emergency" means any unexpected or sudden occurrence that may cause or has caused serious harm to human health or damage to the environment, regardless of whether the potential for harm or damage is immediate or delayed;

"Garden waste" means refuse which is generated as a result of normal gardening activities such as grass cuttings, leaves, plants, flowers and other similar small and light matter that can readily be removed by means of and without damaging the bin liner;

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

"Health care risk waste" means all hazardous waste generated at health care facilities such as hospitals, clinics, laboratories, medical research institutions, dental and medical practitioners and veterinarians;

"Industrial waste" means waste generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities, but does not include building waste, business waste, special industrial waste, hazardous waste, health care risk waste or domestic waste;

"Level of service" means the frequency of the Council service and the type of service point;

"Licensee" means any person who has obtained a license in terms of Chapter 7 of these By-laws;

"Litter" means any object or matter that is discarded by a person in any place except in an approved receptacle provided for that purpose or at a waste handling facility or waste disposal facility;

"Material recovery" means any process where material is removed from the waste stream with the purpose of re-use of the material so removed;

"Minimisation" means the process steps that are taken by industries, businesses and residents to reduce the amount of waste generated and presented for disposal;

"Municipality" means Ephraim Mogale Local Municipality.

“Nuisance” means any injury, harm, damage, inconvenience or annoyance to any person that is caused in any way whatsoever by the improper handling or management of waste, including but not limited to, the storage, placement, collection, transport or disposal of waste or by littering;

“Objectionable waste” means refuse which is toxic, dangerous, injurious or harmful or which may pollute the environment or which results from a manufacturing process or the pre-treatment for disposal purposes of any industrial or mining liquid waste, which may not be discharged into a drain or sewer;

“Occupier” includes any person in actual occupation of the land or premises without regard to the title under which he/she occupies, and, in the case of premises let to lodgers or various tenants, includes the person receiving the rent payable by the lodgers or tenants whether for his/her own account or as an agent for any person entitled thereto or interested therein;

“Owner” includes any person that has the title to any premises or land or any person receiving the rent or profits of any land or premises from any tenant or occupier thereof, or who would receive such rent or profits if such land or premises were let, whether for his/her own account or as an agent for any person entitled thereto or interested therein: Provided that the “owner” in respect of the premises on the Sectional Title Register opened in terms of section 12 of the Sectional Titles Act, 1986 (Act 95 of 1986), means the body corporate as defined in that Act, in relation to such premises;

“Person” means natural person or firm and includes licensees;

“Premises” means a stand or any other portion of land, including any building thereon or any other structure utilized for business, industrial or residential purposes;

“Public place” includes any public building, public road, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden, park, enclosed space vested in a Council, and any road, place or thoroughfare however created which is in the undisturbed use of the public or which the public has the right to use or the right to access;

“Public road” means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access and includes –

- (a) The verge of any such road, street or thoroughfare;
- (b) Any bridge, ferry, or drift traversed by any such road, street or thoroughfare; and
- (c) Any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

“Processing” means any system or activity that is implemented to change the physical, chemical or moisture condition of the waste;

“Radioactive material” means any substance consisting of, or containing, any radioactive nuclide, whether natural or artificial;

“Radioactive waste” means any radioactive material that is or is intended to be disposed as waste;

“Recyclable waste” means waste that has been separated from the waste stream, and set aside for purposes of re-use, reclamation or recycling;

“Removal” means the actions taken to take waste away from the point of generation to a facility where it is treated or disposed;

“Separation” means the actions where different types of waste are kept separate for the purpose of recycling or processing of the waste;

“Service delivery agreement” means an agreement between the Council and a service provider in terms of which the service provider is required to provide Council services;

“Service provider” means any person who has entered into a service delivery agreement with the Council in terms of the Systems Act;

“Special industrial waste” means waste consisting of a liquid, sludge or solid substance, resulting from a manufacturing process, industrial treatment or the pre-treatment for disposal purposes of any industrial or mining liquid waste, which in terms of the Council’s drainage or sanitation By-laws may not be discharged into a drain or sewer;

“Storage” means the process where waste is kept in a safe area or place;

“Tariff” means the user charge for the provision of Council services, determined and promulgated by the Council or adjusted by a service provider in terms of Tariff Policy by-laws adopted under section 75 of the Systems Act;

“Transport” means the movement of waste from one place to another;

“Waste” means any undesirable or superfluous matter, material, by-product or residue of any process or activity that has been discarded, accumulated or stored for the purpose of discarding, reuse, reclamation or recycling. Waste products may be liquid or solid and may include products that contain a gaseous component and may originate from domestic, commercial or industrial activities, but does not include –

- (a) Matter processed as part of sanitation services under the Water Services Act (Act 107 of 1997);
- (b) Any gas or gaseous product which may be regulated by national or provincial legislation; or
- (c) Any radioactive material, except where these By-laws specifically permit it to be handled;

“Waste disposal facility” means any facility or site which receives waste for disposal thereof, and which is operated in terms of a permit obtained from DEAT or any other competent authority or where such a facility is an incinerator, registration or such permission as is required by law, and includes garden waste handling facilities;

“Waste generator” means any person or firm that generates or produces waste;

“Waste handling facility” means any facility that accepts, accumulates, handles, recycles, sorts, stores or treats waste prior to its transfer for incineration or final disposal;

2. Principles

- (1) The Council has the responsibility to ensure that all waste generated within the Council is:
 - (a) Collected, disposed of or recycled in accordance with these By-laws; and
 - (b) That such collection disposal or recycling takes account of the waste management hierarchy set out below.

- (2) The underlying principle of these By-laws is to establish a waste management hierarchy in the following order of priority:
- (a) Avoidance, waste minimisation and waste reduction;
 - (b) Re-use;
 - (c) Recycling, reprocessing and treatment; and
 - (d) Disposal.

3. Main objects.

- (1) The main objects of these By-laws are –
- (a) The regulation of the collection, disposal and recycling of waste;
 - (b) The regulation of the provision of Council services by service providers and commercial services by licensees; and
 - (c) Enhancing sustainable development.
- (2) In pursuing the main objects of these By-laws, and in particular the object set out in subsection (1)(a)(b)(c), the Council must –
- (a) Endeavour to ensure that local communities are involved in the development of local waste plans;
 - (b) Endeavour to minimise the consumption of natural resources;
 - (c) Promote the recycling and reuse of waste;
 - (d) Encourage waste separation to facilitate re-use and recycling;
 - (e) Promote the effective sourcing, planning and delivery of Council services and commercial services;
 - (f) Endeavour to achieve integrated waste planning and services on a local basis;
 - (g) Promote and ensure environmentally responsible Council services and commercial services; and
 - (h) Endeavour to ensure compliance with the provisions of these By-laws.

4. Duty of care

- (1) Every person has a duty to manage any waste generated by his/her activities or the activities of those persons working under his/her direction in such a manner that the waste does not cause harm to human health or damage to the environment. In particular –
- (a) No person may engage in Council services or commercial services in a manner that results in, or creates a risk or harm to human health or damage to the environment, except insofar as such risk of harm or damage is an unavoidable aspect of the Council services or waste management service and has been authorised by the Council; and
- (2) Without limiting its generality, subsection (1) applies to an owner of land, premises or equipment, a person in control of land, premises or equipment or a person who has a right to use the land, premises or equipment on which or in which:
- (a) Any activity or process is or was performed or undertaken; or
 - (b) Any other situation exists, which causes, or is likely to cause, harm to human health or damage to the environment.

- (3) Any person subject to the duty imposed in subsection (1) may be required by the Council or an authorised official to take measures to ensure compliance with the duty.
- (4) The measures referred to in subsection (1) that a person may be required to undertake include –
 - (a) Investigation, assessment and evaluation of the impact that their activities, the process or a situation have on the environment;
 - (b) Informing and educating employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing damage to the environment;
 - (c) Ceasing, modifying or controlling any act, process, situation or activity that causes damage to the environment;
 - (d) Containing or preventing the movement of pollutants or other causes of damage to the environment;
 - (e) Eliminating or mitigating any source of damage to the environment; or
 - (f) Rehabilitating the effects of the damage to the environment.

CHAPTER 2: WASTE MANAGEMENT PLANNING, POLICY AND STRATEGY

5. Development of local waste plans

- (1) The Council must prepare a local waste plan for the Council within one year of commencement of these By-laws, which plan must be implemented within Four (04) years of the commencement of these By-laws. The objectives of the local waste plan include.
 - (1.1) Establishing a means of ensuring that waste is collected, re-used, recycled or disposed of without causing harm to human health or damage to the environment and, in particular, without:
 - (a) Risk to water, air, soil, plants or animals;
 - (b) Causing nuisance through noise or odours; or
 - (c) Adversely affecting rural or urban areas or areas of special interest;
 - (1.2) Establishing an integrated network of waste handling and waste disposal facilities to ensure that:
 - (a) Comprehensive and adequate Council and commercial services are established within the Council;
 - (b) The disposal of waste occurs at accessible waste disposal facilities;
 - (c) The most appropriate methods and technologies are used in order to ensure a high level of protection for and prevention of damage to the environment and harm to human health;
 - (d) Encouraging the minimisation or reduction of waste;

- (e) Promoting the recovery of waste by means of recycling or re-use through proven alternative technology; and
- (f) Any other object that would enhance sustainable development.

6. Scope, preparation and amendment of the local waste plan

- (1) The local waste plan includes but is not be limited to the following matters –
 - (a) Population and development profiles within the Council;
 - (b) An assessment of all significant sources and generators of waste within the Council;
 - (c) An assessment of the quantities and classes of waste currently generated and expected to be generated within the Council;
 - (d) An assessment of the existing markets, Council services, commercial services and waste handling and waste disposal facilities for each waste category;
 - (e) An assessment of the existing options for waste reduction, management and disposal within the Council;
 - (f) An assessment of the number of persons within the Council who are not receiving Council services and proposed strategies and targets for providing these services to such persons;
 - (g) Proposed strategies and targets for managing and reducing waste in the Council and for the efficient disposal of waste that cannot be re-used or recycled;
 - (h) Strategies for waste education and initiatives for separating waste at its source;
 - (i) Strategies for raising awareness of waste management issues;
 - (j) Strategies for establishing the information system as required in section 7;
 - (k) An implementation programme that identifies the required time frames, resources and responsibilities for achieving these strategies and targets;
 - (l) A mechanism for monitoring performance in light of these targets and strategies;
 - (m) Current and anticipated waste collection, transportation, transfer and disposal costs;
 - (n) A consideration of how the local waste plan relates to other relevant plans of the Council; and
 - (o) Such other matters as may be required by any other legislation, regulation or guidelines.
- (2) In preparing the local waste plan, the Council must –
 - (a) Take into consideration any integrated development plan or land development objectives of the Council, and the requirements of any national or provincial legislation or policy
 - (b) Consult with the local community, as required by the Systems Act;
 - (c) Take reasonable steps to bring its draft local waste plan to the notice of the local community by inviting comment thereon from members of the local

- community. Not less than two months must be allowed for submitting such comments, and the finalisation of the local waste plan must be after considering any comment received from the local community;
- (d) Send copies of the draft local waste plan to the Minister of Water and Environmental Affairs and neighbouring Municipalities for their information; and
 - (e) Send a copy of the draft local waste plan to the Limpopo Province for comment and finalise the local waste plan after considering such comment.
- (3) The Council may amend the local waste plan from time to time and must review the plan at least every five years. Such amendments or reviews must be conducted in consultation with the local community.
- (4) The Council must publish a report once a year on the implementation of the plan. The report must include –
- (a) A description of activities and measures taken to achieve the objects of the plan;
 - (b) An indication of whether the objects of the plan are being achieved, and if not, an explanation of problems which have undermined the achievement of the objects;
 - (c) Details of convictions under these By-laws; and
 - (d) A description of significant incidents of dumping.

7. Establishment of an information system

- (1) The Council must establish and maintain an information system that records how waste is managed within the Council.
- (2) The information system may include any information relating to or connected to the management of waste within the Council.
- (3) Details regarding the implementation of the information system will be set out in the local waste plan referred to in section 5.
- (4) The local community is entitled to reasonable access to the information contained in the information system, subject to any limitations imposed by law. In giving effect to this right, the Council must –
 - (a) At the request of a member of the local community, provide information contained in the information system;
 - (b) Take steps to ensure that the information provided is in a format appropriate for lay readers; and
 - (c) May impose a fee for providing such information in order to cover the cost of providing the information requested.

8. Purpose of the information system

- (1) The purpose of the information system is for the Council to –
 - (a) Record data relating to the implementation of the local waste plan and the management of waste in the Council;

- (b) Record information held by the Council in relation to any of the matters referred to in subsection 9 (1)(a)-(j);
- (c) Furnish information upon request or as required by law to provincial and national government;
- (d) Gather information regarding potential and actual waste generators, service providers and licensees;
- (e) Provide information to waste generators, service providers, licensees and the local community in order to:
 - (i) Facilitate monitoring of the performance of the Council, service providers and licensees, and, where applicable, waste generators;
 - (ii) Stimulate research; and
 - (iii) Assist the Council to achieve the main objects of these By-laws.

9. Provision of information

- (1) The Council may, subject to the provisions of any other law including the common law require any waste generator, licensee, service provider or person involved in or associated with the provision of Council services or commercial services within the Council to furnish information to the Council that may reasonably be required for the information system. Such information may concern:
 - (a) Significant sources of waste generation and the identification of the generators of waste;
 - (b) Quantities and classes of waste generated;
 - (c) Management of waste-by-waste generators;
 - (d) Waste handling and waste disposal facilities;
 - (e) Population and development profiles;
 - (f) Reports on progress in achieving any waste management targets;
 - (g) The management of radioactive waste;
 - (h) Any information that has been compiled in accordance with subsection 1 (e);
 - (i) Markets for waste by class of waste or category; and
 - (j) Any other information required by legislation, regulation or guidelines.
- (2) The Council may, at its discretion, determine when and how often information must be furnished.

10. Manner of engaging in waste minimization initiatives

Notwithstanding the need to promote waste minimisation recycling and reuse of waste, no person may undertake waste minimisation initiatives in such a manner that is likely to cause or to increase the risk of harm to human health or damage to the environment.

CHAPTER 3: COUNCIL SERVICES

11. Duty to provide access to Council services

- (1) The Council has an obligation to the local community to progressively ensure efficient, affordable, economical and sustainable access to Council services.
- (2) This duty is subject to:

- (a) The obligation of the local community to pay the prescribed fee, for the provision of Council services, which must be priced in accordance with any nationally prescribed norms and standards for rates and tariffs; and
 - (b) The right of the Council to differentiate between categories of users and geographical areas when setting service standards and levels of service for the provision of Council services. In exercising the right in this subsection, the Council must comply with national legislation and have regard to the factors set out in subsection 3.
- (3) The Council must take the following factors into account in ensuring access to Council services:
- (a) The waste management hierarchy set out in section 2(a)-(d);
 - (b) The need to use resources efficiently;
 - (c) The need for affordability;
 - (d) The requirements of operational efficiency;
 - (e) The requirements of equity; and
 - (f) The need to protect human health and the environment.

12. The provision of Council services

- (1) The Council must as far as reasonably possible and subject to the provisions of these By-laws provide for the collection of domestic waste, business waste and dailies on a regular basis, which in the case of dailies requires collection on a daily basis; and provide recycling facilities, at a cost to end users determined in accordance with the prescribed fee promulgated by the Council.
- (2) In relation to Council services, the Council may determine:
- (a) The quantities of waste that will be collected;
 - (b) Which residential or commercial premises require Council services more frequently than the regular collection service for reasons of health, safety and environmental protection;
 - (c) The maximum amount of waste that may be placed for collection without the provision of an additional service or the imposition of an additional tariff; and
 - (d) Specify requirements for the provision of waste storage areas and access to such areas in respect of new premises that are constructed after the commencement of these By-laws.
- (3) The Council may provide, or require the generator of the waste, to provide an approved receptacle for the storage of domestic waste, business waste and dailies pending collection. Where the Council provides such receptacle, it remains the property of the Council.
- (4) In providing Council services, the Council or service provider may determine or designate:
- (a) Collection schedules;
 - (b) Locations for placing approved receptacles for collection,

- (c) Which types of waste generated by the occupier of any premises are recyclable waste and determine the conditions for their storage or collection; and
 - (d) Which waste items are not suitable for collection.
- (5) The Council or service provider may require a generator of dailies and business waste to compact that portion of the waste that is compactable. Such a requirement may be imposed where the quantity of dailies or business waste generated on premises requires daily removal of more than the equivalent of eight 240 litre bins and where, in the opinion of the Council or service provider, the major portion of such waste is compactable.
- The occupier of premises may elect to compact any volume of such waste and place it into an approved receptacle or wrapper approved by the Council or service provider. Provided that:
- (a) The capacity of the wrapper must not exceed 85 litres and the mass of the wrapper and contents must not exceed 35 kilograms;
 - (b) After the waste has been compacted and put into the wrapper, it must be placed in the approved receptacle and must be stored so as to prevent damage to the wrapper or any nuisance arising until collected; and
- (6) Any approved receptacle used in terms of subsection 12(5) may be collected, emptied and returned to the premises by the Council or service provider at such intervals as it may deem necessary.
- (7) The Council or service provider may review any decisions taken in terms of subsection 12(5) at any time.
- (8) The Council or service provider must notify all generators of domestic waste, business waste and dailies of any decisions taken in terms of subsections 6 or 7 in writing.

13. Obligations of generators of domestic waste, business waste and dailies

- (1) Any person generating domestic waste, business waste and dailies (other than waste that has been designated by the Council as recyclable) must place domestic waste, business waste and dailies in an approved receptacle.
- (2) No person may allow an animal in his/her control to interfere with, overturn or damage a receptacle, which has been placed for collection.
- (3) The occupier of premises must ensure that:
 - (a) No hot ash, unwrapped glass or other domestic waste, business waste and dailies, which may cause damage to approved receptacle or which may cause injury to the Council or service provider's employees while carrying out their duties in terms of these By-laws, is placed in approved receptacles before suitable steps have been taken to avoid such damage or injury;
 - (b) No material, including any liquid, which by reason of its mass or other characteristics is likely to render such approved receptacles unreasonably

- difficult for employees of the Council or service provider to handle or carry, is placed in such receptacles;
- (c) Every approved receptacle on the premises is kept closed save when waste is being deposited in it or discharged from it, and every approved receptacle is kept in a clean and hygienic condition;
 - (d) The approved receptacle delivered by the Council is not used for any purpose other than the storage of domestic waste, business waste and dailies and, in particular, that no fire may be lit in a bin or container;
 - (e) The approved receptacle is placed outside the entrance to the premises before a time and on a day of the week specified by the Council or service provider by notice to the owner or occupier of the premises, except where, on written application to the Council, the Council has indicated in writing that it is satisfied that a person is physically infirm or otherwise incapable of complying with the notice; and
 - (f) The approved receptacle, placed in accordance with subsection 12(5) must be undamaged and properly closed so as to prevent the dispersal of its contents.
- (4) The owner or occupier of premises must provide space and any other facilities deemed necessary by the Council or service provider on the premises for the storage of approved receptacles.
- (5) The space provided in terms of subsection 13(4) must:
- (a) Be in such a position on the premises as will allow the storage of approved receptacles without their being visible from a street or public place;
 - (b) Where dailies are generated on the premises:
 - (i) Be in such a position as will allow the collection and removal of such waste by the Council or service provider's employees without hindrance; and
 - (ii) Be not more than 20m from the entrance to the premises used for the collection of waste by the Council or service provider;
 - (c) Be so located as to permit convenient access to and egress from such space for the Council or service provider's waste collection vehicles;
 - (d) Comply with any further reasonable requirements imposed by the Council or service provider by notice to the owner or occupier of the premises; and
 - (e) Be constructed in accordance with the requirements of any applicable building regulations.
- (6) The occupier of premises must place or cause the approved receptacles to be placed in the space provided in terms of subsection 13(4) and must at all times keep them there, save that:
- (a) In the case of buildings erected, or buildings, the building plans of which have been approved, prior to the coming into operation of these By-laws, or
 - (b) In the event of the Council or service provider being unable to collect and remove waste from the space provided in terms of sub-subsection 13(4) the

Council or service provider may, having regard to the avoidance of nuisance and the convenience of collection of waste, indicate a position within or outside the premises where the approved receptacles must be placed for the collection and removal of such waste and such receptacles must then be placed in such position at such times and for such period as the Council or service provider may require.

14. Prescribed fee for Council services

The Council may either levy rates on property or determine tariffs (or both) for the provision of Council services.

Tariffs in terms of these by-laws will be determined and promulgated in terms of Section 75 A of the G Municipal Systems Act 32/2000.

15. Liability to pay for Council services

- (1) The owner of premises is liable to the Council to pay the prescribed fee for the provision of Council services, and is not entitled to exemption from the liability to pay the prescribed fee by reason of his/her not making use, or of making a partial or limited use, of Council services regardless of whether the Council provides such services directly or through a service provider.
- (2) The prescribed fee becomes due and payable on the same date as the general assessment rate levied.

CHAPTER 4: COMMERCIAL SERVICES

16. Provision of commercial services by licensees

- (1) Save in the case of garden waste, only a licensee may provide commercial services.
- (2) Any person requiring commercial services must satisfy him/her that the contractor is licensed to collect and dispose of the category of waste that has been generated and must take reasonable steps to ensure that the relevant waste is collected and disposed of in terms of these By-laws.

17. Provision for Council co-ordination of waste disposal

The Council may direct, by a notice published in the Provincial Gazette, which a category of waste be disposed of at a particular depot or disposal site. No person may dispose of such waste other than as specified in the notice gazetted under this section or as specified by the Council under other empowering legislation prior to the coming into operation of these By-laws.

18. Storage of business, industrial and recyclable waste

- (1) The owner or occupier of premises on which business, industrial or recyclable waste is generated must ensure that until such time as a licensee collects such waste from the premises on which it was generated:

- (a) The waste is stored within a bulk container or other approved receptacle; and
- (b) That no nuisance, including but not limited to dust and smells, be caused by the handling of waste in the course of generation, storage, or collection.

19. Collection and disposal of industrial, business and recyclable waste

- (1) The owner or occupier of premises generating business, industrial and recyclable waste must ensure that:
 - (a) The container in which the waste is stored may not be kept in a public place except as required for collection;
 - (b) The waste is collected by a licensee within a reasonable time after the generation thereof; and
 - (c) That the service rendered by the licensee must only be in respect of that portion of the business, industrial or recyclable waste authorised in its license.
- (2) A licensee must dispose of business, industrial or recyclable waste at a waste handling facility or waste disposal facility designated by the Council as a waste disposal facility for that purpose in terms of section (17) above and in accordance with the provisions of section (17).

20. Storage, collection and disposal of garden waste and bulky waste

- (1) The owner or occupier of the premises on which garden waste is generated may compost garden waste on the property, provided that such composting does not cause a nuisance or cause a threat to human and environmental health.
- (2) The occupier of the premises on which garden waste is generated and not composted or on which bulky waste is generated must ensure that such waste is collected and disposed within a reasonable time after the generation thereof.
- (3) Any person or licensee may remove garden waste and bulky waste, provided that once such waste has been collected from the premises on which it was generated, it is deposited at a garden waste handling facility in accordance with the provisions of section (17).
- (4) At the written request of the occupier of premises the Council or service provider may, in its sole discretion, deliver an approved receptacle for the purpose of storing garden waste in addition to any approved receptacle delivered to the premises for the storage of domestic waste. The provisions contained in section 12(5), read with the necessary changes, must apply, to an approved receptacle delivered in terms of this section but which is to be used for the storage of garden waste.
- (5) Where, in the course of providing Council services, the Council or the service provider providing the service, is of the opinion that it would cause inconvenience to members of the public not, at the same time, to remove garden and bulky waste, the Council or service provider may remove such waste if such waste has been placed in an approved receptacle referred to in section 12(5) in the space designated for

domestic waste, in which event the tariff for domestic waste, read with the necessary changes, must apply.

21. Generation of building waste

- (1) The owner or occupier of premises on which building waste is to be generated must notify the Council, in writing, of the intention to generate building waste and of the proposed manner for its removal and disposal at least 14 days prior to the intended generation of such waste.
- (2) The owner or occupier of such premises must ensure that:
 - (a) Until disposal, all building waste, together with the containers used for the storage, collection or disposal thereof, is kept on the premises on which the waste was generated;
 - (b) The premises on which the building waste is generated does not become unsightly or cause a nuisance as a result of accumulated building waste;
 - (c) Any building waste which is blown off the premises is promptly retrieved; and
 - (d) Pursuant to any instructions from the Council, any structure necessary to contain the building waste is constructed.

22. Storage of building waste

- (1) The owner or occupier of premises may apply to the Council for written consent to place an approved receptacle for the storage and collection of building waste in the road reserve or sidewalk for the period of such consent.
- (2) Any consent given in terms of subsection (1) may be subject to such conditions, as the Council may consider necessary.
- (3) Every approved receptacle, authorised in terms of subsection (1) and used for the removal of building waste, must:
 - (a) Have clearly marked on it the name, address and telephone number of the person in control of such approved receptacle;
 - (b) Be fitted with reflecting chevrons or reflectors which must completely outline the front and the back thereof; and
 - (c) Be covered at all times other than when actually receiving or being emptied of such waste so that no displacement of its contents can occur.

23. Collection and disposal of building waste

- (1) The owner or occupier of premises on which building waste is generated must ensure that a licensee disposes of the waste.
- (2) All building waste must be disposed at a waste disposal facility designated for that purpose by the Council in terms of a notice under section (17), unless the Council has given written consent for the building waste to be used for the purpose of land reclamation or for recycling.

24. Generation of special industrial, hazardous or health care risk waste

- (1) No person may carry on an activity that may cause special industrial, hazardous or health care risk waste to be generated, without notifying the Council, prior to the generation of such waste, of the composition of such waste, the estimated quantity generated, the method of storage, the proposed duration of storage, the manner in which it will be collected and disposed, and the identity of the licensee removing such waste:
Provided that where such waste is being generated as a result of activities that commenced prior to the commencement of these By-laws, the generator must notify the Council within 6 months of the commencement of these By-laws.
- (2) If so required by the Council, the notification referred to in subsection (1) may be substantiated by an analysis of the composition of such waste certified by an appropriately qualified industrial chemist.
- (3) The person referred to in subsection (1) must notify the Council in writing of any changes occurring with respect to the generation, composition, quantity and method and location of disposal of the special industrial, hazardous, or health care risk waste.

25. Storage of special industrial, hazardous or health care risk waste

- (1) Any person carrying on an activity that may cause special industrial, hazardous or health care risk waste must ensure that the special industrial, hazardous or health care risk waste generated on the premises is kept and stored thereon until it is collected from the premises.
- (2) Special industrial, hazardous or health care risk waste stored on premises must be stored in such a manner that it does not become a nuisance or cause harm to human health or damage to the environment, and in accordance with the requirements of any applicable building regulations or additional by-laws.
- (3) Special industrial, hazardous or health care risk waste must be stored in an approved receptacle for a period not exceeding any maximum period stipulated by the Council before collection.
- (4) The Council may enact additional by-laws providing guidelines for the management of health care risk waste.

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

- (1) Only licensees may transport special industrial, hazardous and health care risk waste and must do so in accordance with the requirements of the Council, stipulated as licence conditions or in additional by-laws, in respect of the type of vehicle, the markings and manner of construction of such vehicle, procedures for safety and cleanliness, and documentation relating to the source, transportation and disposal of such waste, and the requirements of any other legislation.
- (2) A licensee licensed to collect and dispose of special industrial, hazardous or health care risk waste, must inform the Council at those intervals the Council may stipulate in the licence or elsewhere, about the removal of special industrial, hazardous or

health care risk waste, the date of such removal, the quantity, the composition of the waste removed and the facility at which the waste has been disposed.

- (3) A licensee must dispose of special industrial, hazardous or health care risk waste at a waste disposal facility designated by the Council as a waste disposal facility for that purpose and in accordance with the provisions of section (17).

CHAPTER 5: TRANSPORTATION AND DISPOSAL OF WASTE

27. Transportation of waste

- (1) Notwithstanding the provisions of any other legislation, no person may:
- (a) Operate a vehicle for the conveyance of waste upon a street unless the vehicle has a body of adequate size and construction for the type of waste being transported;
 - (b) Fail to maintain the vehicles used for the conveyance of waste in a clean, sanitary and roadworthy condition at all times;
 - (c) Cause or permit any waste being transported in or through the Council to become detached, leak or fall from the vehicle transporting it, except at a waste disposal facility;
 - (d) Knowingly dispose waste at a waste disposal facility that is not permitted to accept such waste.

28. Disposal of waste

- (1) Waste generated within the Council must be disposed of at a waste disposal facility that has been permitted to accept and dispose of such waste in terms of section 17 and in accordance with the provisions of any other law regulating the disposal of waste.
- (2) No person may burn waste either in a public or private place except at an authorized incinerator operated by a licensee, or other than at a place designated by the Council for such purpose.
- (3) Notwithstanding the provisions of subsection (1), any person may dispose of those forms of recyclable waste specified by the Council in a notice in terms of section (17) or elsewhere at designated garden waste handling facilities, but may do so only if all such waste is brought to the facility in vehicles able to carry a maximum load of one tonne or less.
- (4) The disposal of waste at any waste disposal facility may, in addition to any conditions imposed by a competent authority, be subject to such conditions as the Council may from time to time specify, including the hours of opening and closing, the nature of the waste which may be disposed of, the position in any such waste disposal facility in which the waste may be placed and any other matters which the Council considers necessary to ensure the environmentally sound management of waste.
- (5) Every person who enters a waste disposal facility must:

- (a) Enter the waste disposal facility at an access point determined by the operator of the waste disposal facility;
 - (b) On request, provide the Council or the operator of the waste disposal facility with any information regarding the composition of the waste; and
 - (c) Follow all instructions issued by the operator of the waste disposal facility in regard to access to the actual place where, and the manner in which, the waste should be deposited.
- (6) No person may:
- (a) Bring any liquor or intoxicating or narcotic substance onto a waste disposal facility or enter such facility in an intoxicated state;
 - (b) Enter a waste disposal facility for any purpose other than the disposal of waste in terms of these By-laws, unless authorised to do so by the operator of the waste disposal facility or the Council and then only at such times and on such conditions as the Council or operator may from time to time determine;
 - (c) Dispose of waste at a waste disposal facility which is not permitted for such waste; or
 - (d) Light any fire upon or near any disposal area without authorisation.
- (7) Any person who contravenes subsection 28(6)(c) will be liable for all reasonable costs incurred by the Council in removing or otherwise dealing with waste improperly disposed of at a waste disposal facility.
- (8) The operator of the waste disposal facility may at any time require a vehicle or a container on a vehicle that has entered the waste disposal facility for the purposes of disposing waste to be weighed at a weighbridge.
- (9) The Council, the operator of the waste disposal facility, an authorised official or any other persons duly authorised by the Council may, at a waste disposal facility, inspect the content and nature of waste to be disposed of or processed and may take samples and test any waste found on any vehicle to ascertain its composition.
- (10) Any person contravening any of the provisions of this section may be refused entry or be removed from a disposal waste disposal facility.

CHAPTER 6: SERVICE PROVIDERS

29. Agreement, delegation and customer charter

- (1) The Council may discharge any of its obligations under section 11 of these By-laws by entering into a service delivery agreement with a service provider or service providers in terms of the Systems Act.
- (2) Subject to the provisions of the Systems Act or any other legislation, the Council may assign to a service provider any power enjoyed by the Council under these By-laws: Provided that the assignment is required for the service provider to discharge an obligation under its service delivery agreement.

- (3) Any reference in these By-laws to "Council or service provider" should be read as the "Council" if the Council has not entered into a service delivery agreement, and should be read as "service provider" if the Council has entered into a service delivery agreement.
- (4) Service providers must provide services in accordance with a customer charter which must be drawn up in consultation with the Council and which must:
 - (a) Accord with the provisions of these By-laws;
 - (b) Be accessible to the public;
 - (c) Establish the conditions of the service including collection times; and
 - (d) Provide for the circumstances in which Council services may be limited.

CHAPTER 7: LICENSEES

30. Registration requirements

- (1) Any person who provides or intends to provide commercial services within the Council must register with the Council.
- (2) Registration must be by written notification to the Council, and must specify:
 - (a) The name and the residential and postal address of the person providing commercial services, and if a company or close corporation, its registration number, names of its directors or members and the address of its registered head office;
 - (b) The nature of the waste management service provided or intended to be provided by the person;
 - (c) The scope of the service, which must specify the number of clients served or intended to be served at the time of registration, the geographical area of operation and the actual or intended capital expenditure involved, or to be involved, in rendering the service; and
 - (d) The disposal facilities it owns or intends to utilise for the disposal of waste it collects or generates.
- (3) The Council must provide proof of registration specifying the name and the residential and postal address of the registered person and describing the nature of the commercial services provided or intended to be provided by that person.
- (4) Where a person has registered in terms of subsection (1) and the person;
 - (a) Acquires a firm providing commercial services;
 - (b) Merges with other persons providing commercial services;
 - (c) Changes ownership;
 - (d) Changes juristic nature;
 - (e) Changes the nature of the commercial services it provides;
 - (f) Intends to cease providing such services;
 - (g) Is involved in winding-up proceedings; or
 - (h) Increase its gross revenue or client base in excess of 25%, that person is obliged to notify the Council of that occurrence.

31. Licence requirements

- (1) Subject to section 30, no person may provide commercial services without having first obtained a licence.
- (2) Licences issued under these By-laws:
 - (a) Are personal to the licensee and incapable of cession or assignment without the prior written consent of the Council;
 - (b) Are valid for the period stipulated in the licence, which period may not exceed five years, and may, upon application in terms of these By-laws, be renewed by the Council for further periods; and
 - (c) May be suspended or revoked by the Council, on grounds for suspension or revocation which must be:
 - (i) Failure to comply with the provisions of this by-law;
 - (ii) Constant failure to comply with any national or provincial legislation regarding the collection, transportation or disposal of waste;
 - (iii) Failure to comply with any other condition Council may have invoked as part of the licence
 - (d) A licence may only be suspended or revoked after the licence holder has been given written notice of such suspension or revoking and after the licence holder has been given thirty (30) days to rectify such conditions that gave rise to the intended suspension or revoking of the licence.

32. Application for Licence

- (1) Applications for a licence to provide commercial services must be in writing on a form prescribed by the Council. The form must specify the information to be included in the application and the time available for making the application, which period must not be less than two months in duration.
- (2) The Council must consider each application, having regard to the following:
 - (a) The financial, technical and managerial competency and experience of the applicant;
 - (b) The environmental, health and safety record of the applicant;
 - (c) The nature of the waste management service to be provided; and
 - (d) Any other factors which the Council considers relevant.
- (3) After considering the application in terms of subsection 2, the Council must:
 - Approve the application by issuing a licence subject to terms and conditions; or
 - Reject the application, which rejection must be accompanied by reasons.

33. Licence terms and conditions

- (1) When issuing a licence in terms of section 32, the Council may, subject to the provisions of subsection 32(2), impose any licence conditions it deems reasonably necessary.
- (2) Licences issued by the Council must:

- (a) Describe the geographical area of operation of the licensee;
- (b) Specify the licence period and the procedure for any licence renewal;
- (c) Specify the category or categories of waste the licensee may manage;
- (d) Contain a requirement that the licensee must comply with these By-laws, and applicable provincial and national legislation;
- (e) Require the licensee to keep monthly records in respect of:
 - (i) The quantities of waste received, the location of the sources generating the waste, the identity of the generator and, where the licensee manages different categories of waste, the quantity of each category managed;
 - (ii) Emission levels where the licensee manages a licensed incinerator;
 - (iii) Any activity related to the achievement of local, provincial or national targets where such targets have been determined, and must include the results of monitoring such activity;
 - (iv) Any waste minimisation or recycling activities in which the licensee is involved;
 - (v) Consumer supply figures; and
 - (vi) Complaints received by the public.
- (f) Require the licensee to have the appropriate property and liability insurance for any waste disposal or handling facilities owned by it in accordance with an insurance programme approved by the Council under the licence, which approval may not subject the Council to any liability if the insurance programme proves inadequate;
- (g) Permit the licensee to conduct any other business activity not regulated in the licence, provided that any such business activity does not conflict with or adversely affect the licensee's obligations under the licence, these By-laws or any other law, and provided that such activities are separately accounted for;
- (h) Stipulate procedures for amendment of the licence;
- (i) Stipulate circumstances under which the licence may be revoked or suspended by the Council and set out an appeals procedure;
- (j) Prescribe the payment of a licence fee;
- (k) Require the licensee to take reasonable steps to prevent his/her employees from committing any act or omission in the course of their employment that may cause harm to humans or damage to the environment;
- (l) Require the licensee to ensure compliance with these By-laws and conditions by its employees, agents and sub-contractors, and ensure that sub-contractors are licensed to store, collect, transport and dispose of any waste stream that they have been contracted to manage; and
- (m) Contain any other term or condition that the Council considers relevant.

34. Prohibited conduct

- (1) Licensees may not:

- (a) Cease operations at a waste disposal facility without a closure plan approved by DWAF and the Department of Environmental Affairs and Tourism or any other competent authority;
- (b) Abandon a waste disposal facility or waste handling facility;
- (c) Operate in contravention of the terms and conditions of their licence;
- (d) Fail or refuse to give information, or give false or misleading information when required to do so in terms of these By-laws;
- (e) Fail to take all reasonable steps to prevent an act or an omission by an employee where the employee is or was acting on behalf of the licensee, when such an act or omission would constitute an offence if it were the act or omission of a licensee;
- (f) Dispose of any health care risk waste otherwise than by incineration, unless prior consent has been obtained from the DWAF; or
- (g) Dispose of hazardous or special industrial waste otherwise than by disposing of it at a waste disposal facility which has been permitted for the disposal of this category of waste.

35. Transitional provisions and exemptions

- (1) Any person lawfully providing commercial services within the Council at the time an application for a licence is made, may continue to provide commercial services while the licence application is being considered by the Council.
- (2) A Council may at its sole discretion, and having regard to the main object of these By-laws and its local waste plan, exempt any form of commercial service from the provisions of Chapter 7 of these By-laws and must indicate the terms and scope of any exemption in a notice published in the Provincial Gazette.

CHAPTER 8: LITTERING, DUMPING AND ABANDONED ARTICLES

36. Duty to provide facilities for litter

- (1) The Council, or owner in the case of privately owned land, must take reasonable steps to ensure that sufficient approved receptacles are provided for the discarding of litter by the public, in any place to which the public has access.
- (2) The Council, or owner of privately owned land, must ensure that all approved receptacles installed on the premises for the collection of litter are:
 - (a) Maintained in good condition;
 - (b) Suitably weighted and anchored so that they cannot be inadvertently overturned;
 - (c) Constructed in such a manner as to ensure that they are weatherproof and animal proof;
 - (d) Of suitable size to contain all litter likely to be generated on the premises and by the users thereof;
 - (e) Placed in locations convenient for the use by users or occupants of the premises to discourage littering or the unhealthy accumulation of waste; and

- (f) Emptied and cleansed periodically or when full. The emptying and cleansing of approved receptacles must be sufficiently frequent as to ensure that no receptacle or its contents may become a nuisance or provide reasonable grounds for complaint.
- (3) In any public place where an approved receptacle has been placed for the depositing of litter, the Council may put up notices about littering.

37. Prohibition of littering

- (1) No person may:
 - (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 receptacle which has been placed for the purposes of collecting litter in such a manner as to cause the contents of the receptacle to spill or fall onto the ground around it; and
 - (d) Allow any person under his/her control to do any of the acts contemplated in paragraphs a, b or c above.
- (2) Notwithstanding the provisions of subsection (1), the Council, or owner in the case of privately owned land to which the public has 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. For the purposes of this section, a reasonable time may mean that period of time before the litter becomes a nuisance or cause for complaint.

38. Prohibition of dumping and abandoning articles

- (1) No person may, without authorisation, deposit or permit the depositing of any waste whether for gain or reward or otherwise, upon any land or in any building of which he/she is the owner or occupier except where such deposits are made in accordance with the provisions of these By-laws.
- (2) Subject to any provisions to the contrary contained in these By-laws, no person may leave any article or allow any article under his or her control to be left at a place with the intention of abandoning it.
- (3) No person may dump waste.
- (4) Any article, other than a motor vehicle deemed to have been abandoned in terms of section 114 of the Road Traffic Act, 1989 (Act 29 of 1989), 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 disposed of by the Council as it may deem fit.
- (5) The Council may remove and dispose of any article which is chained or fastened to any pole, parking meter or any other property belonging to the Council, without authorisation as it may deem fit.

CHAPTER 9: ADMINISTRATIVE ENFORCEMENT PROVISIONS**39. Appointment of authorised officials**

- (1) The Council shall appoint authorised officials who shall be vested with the power to:
 - (a) Discharge the Council's right of access to premises in terms of section 101 of the Systems Act;
 - (b) Issue an enforcement notice under section 44;
 - (c) Impose an infringement notice in terms of section 44; and
- (2) An authorised official is not a peace officer within the meaning of the Criminal Procedure Act and has no powers of arrest in respect of any offence created in these by-laws.
- (3) In appointing an authorised official, the Council shall have regard to:
 - (a) A person's technical understanding and experience of matters related to waste management; and
 - (b) Any other factor that may be relevant to supervision and enforcement of these by-laws, whether technical or administrative.
- (4) An authorised official may be an employee of the Council or any service provider of the Council:

Provided that, in the latter case, there is no conflict of interest between the person's duty as an authorised official and as an employee of the service provider.
- (5) Upon appointment, authorised officials shall be issued with a means of identification by the Council (hereinafter called "an identification"), which shall state the name and function of the authorised official, and must include a photograph of the officer. An authorised official, acting within the powers vested in him by these by-laws, is required to present identification on demand by a member of the local community.

40. Powers to execute work and inspect vehicles and premises

- (1) In addition to the powers an authorised official has as an authorised representative of the Council under section 101 of the Systems Act or any other legislation, an authorised official,
 - (a) May search any vehicle or other mode of conveyance with the consent of the owner or person in charge of the vehicle.
- (2) A search conducted in terms of these By-laws must be conducted in a manner that conforms to the requirements of the Bill of Rights and any other law and, in particular, must be conducted with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- (3) To the extent that access to premises does not fall within the scope of section 101 of the Systems Act or any other legislation, an authorised official who has reasonable grounds to suspect that there is an environmental emergency and that any delay in obtaining a search warrant will cause serious harm to human health or damage to the environment may, without warrant, enter and search any premises associated with the emergency: Provided that the entry and search be conducted in conformity

with the requirements of the Bill of Rights and any other law, and in particular, with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.

- (4) Where, in the opinion of an authorised official, any search of a vehicle, as contemplated in these By-laws, gives rise to the reasonable apprehension that the presence of waste in or on that vehicle is a serious and immediate danger to human health or to the environment, the authorised official may seize that vehicle in order to prevent, or where that is impossible, to mitigate harm to human health or damage to the environment.
- (5) In the event of the seizure of any vehicle under subsection 1 (a), the Council must:
 - (a) Forthwith take steps to dispose of such waste in order to prevent, and where that is impossible, to mitigate, harm to human health or damage to the environment; and
 - (b) Return the said vehicle, within 48 hours after disposing of such waste, to the control of the licensee or person from whose possession or control it was taken.

41. Powers to question

- (1) In order to monitor or enforce compliance with these By-laws, the authorised official, may, subject to the requirements of the Bill of Rights, and any other law including the common law, require a licensee or any other person to disclose information, either orally or in writing, and either alone or in the presence of witnesses, on any matter to which these By-laws relate, require that the disclosure be made on oath or affirmation.
- (2) An authorised official may be assisted by an interpreter and any other person reasonably required to assist the authorised official in conducting the inspection.
- (3) An authorised official must, on request, provide his/her identification as an authorised official.

42. Supervision of licensees

- (1) Authorised officials must inspect the workplace of a licensee not less than twice a year, and an authorised official is entitled to enter the workplace of a licensee for this purpose.
- (2) Such an inspection must be conducted in conformity with the requirements of the Bill of Rights, and any other law, and in particular, an authorised official in conducting an inspection under subsection (1) must do so with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- (3) If an authorised official is of the opinion, after such an inspection, that a licensee is complying with these By-laws, he may, subject to the provisions of subsection 2, issue the licensee with a certificate confirming compliance, which must state –
 - (a) The name and residential and postal address of the licensee;
 - (b) The time, date and scope of the inspection; and
 - (c) Any remarks that in the opinion of the authorised official may be relevant.

- (4) If a licensee fails to obtain a certificate confirming compliance at three inspections over a period of two years, the authorised official may recommend that the Council review the licence, and should there be reasonable grounds, the Council may revoke the licence in terms of subsection 2 Provided that the consecutive inspections occur at not less than four month intervals.
- (5) Authorised officials must keep a register recording each inspection that has been undertaken.

43. Supervision of owners and occupiers

Owners and occupiers must keep their premises clean and free from any waste which in the opinion of an authorised official is likely to cause a nuisance, harm to human health or damage to the environment, and must take reasonable steps to prevent an employee acting in the course of their employment, from committing an act or omission that may cause a nuisance, harm to human health or damage to the environment.

44. Enforcement notices

- (1) If, in the opinion of the authorised official, a person is:
 - (a) Causing a nuisance, harm to human health or damage to the environment; or
 - (b) As licensee, is failing to comply with the terms of a licence granted in terms of these By-laws; or
 - (c) As owner or occupier, has failed to satisfy an obligation in terms of section 39 of these by-laws, the authorised official may issue or cause to be issued on that person an enforcement notice in terms of this section.
- (2) An enforcement notice issued under this section must state:
 - (a) The name and also the residential and postal address, if either or both of these be known, of the affected person;
 - (b) The nature of the nuisance, harm to human health or damage to the environment that the affected person is causing or is likely to cause;
 - (c) The steps required to forestall or remediate the nuisance, harm to human health or damage to the environment in sufficient detail to enable compliance with the enforcement notice;
 - (d) That the affected person must not later than 21 calendar days from the date on which the enforcement notice is issued take steps to comply with the notice;
 - (e) That failure to comply with the requirements of the enforcement notice within the period contemplated in paragraph (d) may result in civil liability; and
 - (f) That written representations may be made to the Council in accordance with section 47, or a designated committee or internal functionary to which powers under these By-laws have been delegated, at a specified place, within 21 calendar days of receipt of the notice.
- (3) If an affected person fails to comply with an enforcement notice, the Council or anyone authorised by the Council, may perform the steps required in the

enforcement notice, provided that Council does so in conformity with the requirements of the Bill of Rights and any other law, in particular, an authorised official must act with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.

- (4) Where the Council incurs any expenditure as a result of performing such steps, the Council may recover any reasonable expenditure from the person who failed to act as directed or, where criminal proceedings have not been instituted, by means of civil proceedings.
- (5) Any licensee which commits an offence in terms of subsection 44(1)(b) and has, within the last five years, been convicted of the same offence, may be declared a serial offender under these By-laws and have its license revoked immediately.

45. Infringement notices

- (1) If, in the opinion of the authorised official, a person is:
 - (a) Allowing waste other than domestic waste or dailies to remain uncollected, the authorised official may serve or cause to be served on that person an infringement notice in terms of this section instead of a notice contemplated in section 56 of the Criminal Procedure Act (Act 51 of 1977).
- (2) The infringement notice must:
 - (a) Specify, at the time when the notice is issued, the name and also the residential and postal address, if either or both of these were known, of the person on whom the infringement notice is served;
 - (b) State the particulars of the infringement;
 - (c) Specify the amount of the penalty payable in respect of that infringement and the place where the penalty may be paid which penalty may not exceed R5000,00 (five thousand Rand); and
 - (d) Inform the person on whom the infringement notice is served that, not later than 28 calendar days after the date of service of the infringement notice, he may:
 - (i) Pay the penalty; or
 - (ii) Inform the Council in writing that he elects to be tried in court on a charge of having committed an offence under section 44.
- (3) Where a person makes an election under subsection 2(d) (i), the procedure set out in section 50 applies.

46. Complaints

Any person may lodge a complaint with an authorised official, or through any other channel established by the Council, that any other person is causing harm to human health or damage to the environment by engaging in Council services or commercial services, in which event the authorised official, unless he/she has reasonable grounds to believe that the complaint is frivolous or an abuse of the main objects of these By-laws set out, must

investigate the complaint and must, if he/she is satisfied that such harm is or is likely to be caused, issue an enforcement notice or infringement notice, whichever be appropriate.

47. Representations

- (1) Any affected person may make representations to the Council, or a designated committee or internal functionary of the Council to which the Council has delegated its powers, in the manner specified in the enforcement notice.
- (2) Representations must be made by submission of a sworn statement or affirmation to the Council, designated committee or internal functionary within 21 calendar days of the service of the notice.
- (3) Any representation not lodged within 21 calendar days must not be considered, save where the affected person has shown good cause and the Council, the designated committee or internal functionary condones the late lodging of the representation.
- (4) The Council, or designated committee or internal functionary, must duly consider the representations and any response thereto by an authorised official or any other person, if there be such a response; and may, on its own volition, conduct any further investigations to verify the facts if that, in its opinion, is necessary. If the Council, or designated committee or internal functionary, should conduct any further investigations, the results of such investigation must be made available to the affected person, who must be given an opportunity of making a further response if he/she so wishes, and the Council, or designated committee or internal functionary, must also consider such further response.
- (4) After the Council, or designated committee or internal functionary, is satisfied that the requirements of these By Laws have been satisfied, the Council, or designated committee or internal functionary, must make an order in writing and give a copy of it to the affected person setting out its findings. Such an order may:
 - (a) Confirm, alter or set aside in whole or in part, an enforcement notice; and
 - (b) Must specify the period within which the affected person must comply with any order made by it.
 - (c) If the enforcement notice is confirmed, in whole or in part, or is altered but not set aside, the Council, or designated committee or internal functionary, must inform the affected person that he may elect to be tried in court, or must discharge the obligations set out in the enforcement notice.
- (6) If the affected person elects to be tried in court, he/she must notify the Council, or designated committee or internal functionary of his/her election within seven calendar days, and on receipt of such notification by the Council, or designated committee or internal the provisions of these By Laws apply.
- (7) If the affected person does not elect to be tried in court, he/she must discharge his/her obligations under the enforcement notice within the prescribed manner and time.
- (8) If the affected person lodges a representation or elects to be tried in Court, any requirement in terms of these By-laws requiring compliance with an enforcement notice, may be suspended unless, in the opinion of the Council, the affected person has caused an environmental emergency in which event and without derogation

from any right that the affected person may have, or may in the future have, at common law or under any other law, to any relief of whatever nature, the affected person must immediately comply with any such requirement on being ordered, orally or in writing, by the Council to do so.

- (9) If there is an environmental emergency and if the affected person, despite receiving a lawful order made, fails to comply with such an order, the Council may itself cause the environmental emergency to be stopped, reversed or abated, in which event the Council may institute civil proceedings for the recovery of any reasonable and necessary expenditure which it has incurred or may incur in effecting such a stoppage, reversal or abatement.

CHAPTER 10 : JUDICIAL ENFORCEMENT PROVISIONS

48. Service of documents and process

For the purposes of the service of any notice, order or other document relating to non-payment for the provision of Council services, the address of the owner of the premises on which domestic waste and business wastes is generated is deemed to be the place for service of documents and process of such owner.

49. Service of notices

- (1) Where any notice or other document is required by these By-laws to be served on any person other than for the purpose of criminal proceedings:
- (a) It must be served on him personally, failing which if it be served on any member of his/her household, 16 years or older, who signs for the receipt of such notice at his/her place of residence or business; and
 - (b) If sent by registered post to the person's address as contemplated, it constitutes service in terms of section 7 of The Interpretation Act, 1957 (Act 33 of 1957).

50. Trial

If a person elects to be tried in court, the person must, notify the Council of his/her election, the authorised official must within 10 calendar days take all necessary steps, as envisaged in the Criminal Procedure Act, 1977 (Act 51 of 1977), in order to secure the attendance and prosecution of the accused, in which event the enforcement notice or infringement notice must be cancelled.

51. Offences and penalties

Any person, including an affected person or licensee, who:

- (a) Contravenes or fails to comply with any provisions of these By-laws;
- (b) Fails to comply with any notice issued in terms of these By-laws; or
- (c) Fails to comply with any lawful instruction given in terms of these By-laws, or
- (d) Who obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties under these By-laws, is guilty of an offence and

liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months.

CHAPTER 11: GENERAL PROVISIONS

52. Ownership

- (1) The person holding the permit to operate a waste disposal facility is deemed to be the owner of the waste disposed at that facility.
- (2) Such operator has a right of recourse against:
 - (a) Any person that causes waste to be disposed at the waste disposal facility where that person knowingly and without the knowledge of the operator disposes waste that that facility is not permitted to accept; and
 - (b) Any waste generator that knowingly puts waste out for collection that is not of the category being collected.

53. Consolidation of by-laws

- (1) Any by-laws relating to the main objects of these By-laws must be maintained by the Council in consolidated form together with these By-laws, and must be made available to the public, on request.
- (2) Additional by-laws may be enacted relating to:
 - (a) The steps and measures to be adopted in giving effect to the duty of care.
 - (b) The locations at which any activities relating to waste, including disposal, may be carried out;
 - (c) The separation of waste at any stage in any activity relating to waste;
 - (d) Measures to promote waste minimisation;
 - (e) The implementation and operation of recycling, re-use, refundable deposit or take-back schemes;
 - (f) Penalties to be prescribed for the violation of license conditions, and
 - (g) Information to be furnished to the Council.

54. Repeal of by-laws

The by-laws listed in Schedule 1 are hereby repealed in their entirety.

55. Date of commencement

These By-laws commence on the date of publication in the LIMPOPO Provincial Gazette.

SCHEDULE 1: LEGISLATION REPEALED

Marble Hall Town Council (Solid Wastes) and Sanitary By-Laws; Administrator's Notice No.1171 (16 AUGUST 1978)
