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LOCAL AUTHORITY NOTICE

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NKOMAZI MUNICIPALITY

NOTICE OF DRAFT BY-LAW

The Nkomazi Municipality hereby gives notice in terms of section 156(2) of the Constitution of the Republic of South Africa, act 108 of 1996, as amended, read with section 12(3) of the Local Government Municipality systems act, 32 of 2000, as amended, that it intends to make by-laws with regard to the following:

- **SOLID WASTE MANAGEMENT BY – LAWS**

The draft by -law will be open for inspection at the office of the Acting Director Community services Lion street, Malelane on Monday to Friday from 08 : 00 -13:00

Any person who wishes to make written comments or representations may direct it to the acting Municipal Manager, Private Bag x 101, Malelane, 1320, or to the office of the Director Community Services Lion Street Malelane , Tel: 013 790 05219 within a period of 30 days from 1 April 2010 to 30 April 2010



MR MKHATSHWA
ACTING MUNICIPAL MANAGER
NKOMAZI MUNICIPALITY

25/03/2010

DATE



DRAFT SOLID WASTE MANAGEMENT BY -LAW

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CHAPTER 1

INTERPRETATION, PRINCIPLES AND OBJECTIVES

1. Definitions – In these By-laws, unless the context indicates otherwise_

“**affected person**” means a person who has been issued, or who is being issued with an enforcement notice;

“**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;

“**Bill of Rights**” means chapter 2 of the Constitution of the Republic of South Africa, 1996;

“**bin**” means an approved receptacle for the storage of waste which may be supplied by the council or the owner of the premises in terms of these By-laws:

“**bin liner**” means an approved loose plastic or other suitable material liner for the use in the interior of a bin;

“**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;

“**Business waste**” means, waste, other than hazardous waste, healthcare risk waste, building waste, industrial waste, generated on premises used for non-residential purposes;

“**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;

“**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 an approved receptacle having a capacity for temporary storage of waste in terms of these By-laws;

“**council**” means –

(a) the municipal council of the Nkomazi Local Municipality that has been given or any power has been delegated or sub delegated in terms of, or as contemplated in section 59 of the Systems Act, or where the context sp requires, means the aforesaid Nkomazi Local Municipality; or

(b) a service in respect of any power, function or duty of the Council as contemplated in paragraph (a) assigned by I for the purpose of the By-laws to that service provider in terms of section 81 (2) of the Systems Act,

“**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 System Act;

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

“domestic” waste means waste generated on premises used solely for residential purposes and purposes of public worship, including halls or other buildings used for religious purposes, but does not include business waste, bulk waste, garden waste or bulky waste;

“dump” means placing waste anywhere whether than an approved receptacle or a place designated as a waste handling facility or waste disposal facility by the council or service provider;

“DWAF” means the National Department of Water Affairs and Forestry;

“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 aesthetical 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;

“firm” includes any juristic person or any association of persons established or operating in the Republic of South Africa;

“garden waste” means waste generated as a result of normal domestic gardening activities, including grass cuttings, leaves, plants, flowers and other similar small and light organic matter, but does not included felled trees or branches, bulky waste, soil or building waste or any waste generated as a result of garden service activities;

“garden service” means the provision of gardening services by a licensee including the cutting of grass, pruning of trees or any other horticultural activity including, landscaping, to any domestic, business, commercial or industrial premises;

“garden waste handling facility” means a waste handling facility that receives and temporarily stores garden waste or any other recyclable waste;

“hazardous waste” means waste containing or contaminated by poison, corrosive agent, a flammable substance having an open flash-point of less than 90 de 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 waste generated at health care facilities such as hospitals, clinics, laboratories, medical institutions, dentals 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 pf these By-laws;

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

“local community” in relation to the council means that body of person comprising –

- (a) the residents of the council,
- (b) the ratepayers of the council,
- (c) any civic organizations and non-governmental, -private sector or labour organizations or bodies which are involved in local affairs within the council, and
- (d) visitors and other people residing outside of the council who, because of their presence in the council make use of services or facilities provided by the council;

“nuisance” means injury, harm, damage, inconvenience or annoyance to any person which 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;

“occupier” includes any person in actual occupation of the land or premises without regard to the title under which he occupies, and, in the case of premise let to lodgers or various tenants, includes the person receiving the rent payable by the lodgers or tenants whether for his 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 profit 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 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, 1996 (Act 95 of 1986), means the body corporate as defined in the Act, in relation to such premises;

“person” means natural person or noise, odours, dust or heat, emitted from any activity, including the storage or treatment of waste or substances, construction and the provision of services, whether engaged in by any person or an organ of state, where that change has an adverse effect on human health or well-being or on the composition, resilience and of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future;

“premises” means an erf or any other portion of land, including any building thereon or any other structure firm and included licensees;

“pollution” means any change in the environment caused by --

- (a) substances; or
- (b) noise, odours, dust or heat, emitted from any activity, including the storage or treatment of waste or substances, construction and the provision of services, whether engaged in by any person or an organ of state, where that change has an adverse effect on human health or well-being or on the composition, resilience and of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future;

“premises” means an erf 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 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;

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

“**radioactive waste**” means any radioactive material which is or is intended to be disposed of as waste;

“**road reserve**” means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic which is between the edges of the roadway or that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or the shoulder;

“**service delivery agreement**” means an agreement between the council and a service provider in term of which the service provider is required to provide councils services;

“**service provider**” means any person which 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;

“**Structures Act**” means the Local Government: Municipal Systems Act, 200 (Act 32 of 2000);

“**target**” means any desired air, water quality or waste standards contained in any legislation;

“**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;

“**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 provincial legislation; or
- (c) any radioactive material 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 DWAF 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;

“**workplace**” means any place within the council or in which or in connection with which a person undertakes council services or commercial services and;

“**wrapper**” means a plastic or other suitable or approved material covering that totally encloses bales or slugs of compacted waste.

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 minimization 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 councils 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) endeavor to ensure that local communities are involved in the development of local waste plans;
 - (b) endeavor to minimize the consumption of natural resources;
 - (c) promote the recycling and re-use of waste;
 - (d) encourage waste separation to facilitate re-use and recycling;
 - (e) promote effective resourcing, planning and delivery of council services and commercial services;
 - (f) endeavor to achieve integrated waste planning and services on a local basis;
 - (g) promote and ensure environmentally responsible council services and commercial services; and
 - (h) endeavor 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 activities or the activities of those persons working under his 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 of harm to human health or damage to the environment, except insofar as such a risk of harm or damage is an unavoidable aspect of the councils services or waste management service and has been authorized u the council's and
- (2) Without limiting its generality, subsection (1) applies to an owner of land, premises or equipment. A person on control of land, premises or equipment or a person who has a right to use the land, premise 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 so likely to cause, have, 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 authorized 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) The measures referred to in subsection (1) that a person may be required to undertake include –
- (b) investigation, assessment and evaluation of the impact that their activities, the process or a situation have on the environment;
- (c) informing and education employees about the environmental risks of their work and the manner in which their tasks must be performed in order to void causing damage to the environment;
- (d) ceasing, modifying or controlling any act, process, situation or activity which causes damage to the environment;
- (d) containing or preventing the movement of pollutants or other cases 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

Part 1: Local Waste Plans

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 complemented within four years of the commencement of these By-laws. The objectives of the local waste plan include.
- (2) Establishing a means of ensuring that waste is collected, reused, 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, plant or animals;
 - (b) causing nuisance through noise or odours; or
 - (c) adversely affecting rural or urban areas or areas of special interest;
- (3) Establishing an integrated network of waste handling and waste disposal facilities to ensure that –
 - (a) comprehensive and adequate council services and commercial services are establishing within the council;
 - (b) the disposal of waste occurs at accessible waste disposal facilities; and
 - (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 minimization 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 which would enhance sustainable development.

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

- (1) The local waste plan included but is not to 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 qualities and classes of waste currently generated and projected to be generated within the council;
 - (d) an assessment of the quantities sources and generators of waste within the council;
 - (e) An assessment of the existing markets, council services, commercial services and waste handling and waste disposal facilities for each waste category;
 - (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 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 program 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 finalization 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 Environmental Affairs and the Minister of Water Affairs and Forestry, and neighboring Municipalities for their information; and
- (e) send a copy of the draft local waste plan to the Mpumalanga Province for comment and finalize the local waste plan after consideration 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 achievements of the objects;
- (c) details of convictions under these By-laws, and
- (d) a description of significant incidents of dumping.

Part II: Information System

7. Establishment of an information system –

- (1) The council must establish and maintain an information system which 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 at the request of a member of the local community, provide information contained in the information system;
- (5) take steps to ensure that the information provided is in a format appropriate for lay readers, and

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 6 (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 objectives 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. Such information may concern –
 - (a) significant sources of waste generation and the identification of the generators of waste;
 - (b) quantities and classes of waste generators;
 - (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 and waste management targets;
 - (g) the management of radioactive waste;
 - (h) any information which has been compiled in accordance with subsection 1 (e);
 - (i) markets for waste by class of waste or satisfactory; 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 minimization recycling and reuse of waste, no person may undertake waste minimization 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

Part 1: Providing Access to 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 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 if 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 3 (a)-(d);
 - (b) the need to use resources efficiently;
 - (c) the need for affordability;
 - (d) the requirement of operational efficiency;
 - (e) the requirement of equality; 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 – law –
 - (a) 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
 - (b) Provide recycling facilities,
 - (c) 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 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 which are constructed after the commencement of these By – Laws
- (4) 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 such receptacles is provided by the council, it remains the property of the council.
- (5) 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 unsuitable for collection.
- (6) 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 weight 240 liters 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 liters and the mass of 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;
 - (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
- (7) Any approved receptacle used in terms of section 6 may be collected, emptied and returned to the premises by the council or service provider at such intervals as it may deem necessary.
- (8) The council or service provider may review any decisions taken in terms of section 6 at any time.
- (9) The council or service provider must notify all generators of domestic waste, business waste and dailies of any decisions taken in term of subsection 6 or 7 in writing.

Part II Using Council Services

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

- (1) Any person generating domestic waste, business waste and dailies (other than waste which 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 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 receptacles or which may cause injury to the council or service provider's employees while carrying out their duties in terms of these By-law's 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 characteristic 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, place in accordance with section 12 must be undamaged and properly closed so as to prevent the dispersal it 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 section (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 section (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 section 13(4)
 - (c) the council or service provider may, having regard to the avoidance of nuisance and the convenience of the 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. The 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 75A of the 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 not making use, or of making a partial or limited use, of council services regardless if 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

Part 1: Provision of Commercial Services by Licensees and Flow Control

16. Provision of commercial services by licensees –

- (1) Save the case of garden waste, only a licensee may provide commercial services.
- (2) Any person requiring commercial services must satisfy himself 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 that 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 the By-laws.

Part 22: Business, industrial and recyclable Waste

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 such waste is collected by a licensee from the premises on which it was generated –
 - (a) the waste is stored within a bulk container or other approved receptacle; and
 - (b) no nuisance, including but not limited to dust is caused by the 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 authorized 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)

Part 111: Garden Waste and Bulky Waste

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.
- (2) The occupier of the premises on which garden waste is generated and to be 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 for 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 0, 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 no, 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 (4) in the space designated for domestic waste, in which event the tariff for domestic waste, read with the necessary changes, must apply

Part IV: 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

21. Storage of building waste –

- (1) The owner or occupier of premises may apply to the council for written consent to place and approved receptacle for the storage and collection of building waste in the road reserved 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, authorized 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.

22. Part V: Special Industrial, Hazardous or Health Care Waste

- (1) No person may carry on an activity which may cause special industrial, hazardous or health care risk waste to be generated without notifying 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 which commenced prior to the commencement of the 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.

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

- (1) Any person carrying on an activity which 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 there on 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.

24. 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 requirement 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 of 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).

TRANSPORTATION AND DIPOSAL OF WASTE

25. 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 conditions 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.

26. 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 any 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 ton 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 times 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 facility
 - (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 other purpose than the disposal of waste in terms of the By-laws, unless authorized 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) enter a waste at a waste disposal facility which is not permitted for such waste; or
 - (d) light any fire upon or near disposal area without authorization
- (7) Any person who contravenes section 28(6) 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 authorized official or any other persons duly authorized 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

27. 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 level 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

Part 1: Registration

28. 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 if 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 utilize for the disposal of waste it collects or generates
- (3) The council must provide proof 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) acquired 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%,
then that person must notify the council of that occurrence

Part II: Licence to Provide Commercial Services

29. Licence requirements –

- (1) Subject to section 30, no person may provide commercial services without having first obtained a licence
- (2) Licenses 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 of 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 written

30. 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) any other factors which the council considers relevant
- (3) After considering the application in terms of subsection 2, the council must -
 - (a) approve the application by issuing a licence subject to terms and conditions; or
 - (b) Reject the application, which rejection must be accompanied by reasons.

31. 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) Licenses 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 of 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;
 - (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 minimization 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 program approved

- by the council under the licence, which approval may not subject the council to any liability if the insurance program 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 provide 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 licensee fee;
 - (k) require the licensee to take reasonable steps to prevent his 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 the By-laws and conditions buy 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) contains any other terms or condition that the council considers relevant.

32. 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 or any other competent authority;
- (b) abandon a waste disposal facility
- (c) Operate in contravention of the terms and conditions of the 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 of omission would constitute an offence it were the act or omission of a licensee;
- (f) 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.

33. Transitional provisions and exemptions –

- (1) Any person lawfully providing commercial services within the council at the time an application for a licence to 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 the By-laws and its local waste plan, exempt any from 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 ABANDONES SITES

34. 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 in 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 accumulations of waste; and
 - (f) emptied and cleansed periodically or when full. The emptying and cleansing of approved receptacles must be sufficient frequent as to ensure that no receptacle or its contents may become a nuisance or provide reasonable grounds for complaints.
- (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

35. Prohibiting 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 into the ground around it; and
 - (d) allow any person under his 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.

36. Prohibition of dumping and abandoning articles –

- (1) No person may, without authorization, 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 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 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, or other than a motor vehicle deemed to have been abandoned in terms of section 114 of the Road Traffic Act, (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 regard 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 authorization as it may deem fit.

CHAPTER 9**ADMINISTRATIVE ENFORCEMENT PROVISIONS****Part 1: Appointment of authorized officials****37. Appointment of authorized officials**

- (1) The council shall appoint authorized officials who shall be vested with the power to –
 - (a) Discharge the council's right to access to premises in terms of section 101 of the Systems Act;
- (2) An authorized official is not a peace officer within the meaning of the Criminal Procedure Act 51 of 1977 and has no powers of arrest in respect of any offence created in these by-laws
- (3) IN appointing an authorized 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 authorized 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 authorized official and as an employee of the service provider.
- (5) Upon appointment, authorized 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 authorized official, and must include a photograph of the officer. An authorized 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.

Part II: Powers of authorized official**38. Powers of execute work and inspect vehicles and premises –**

- (1) In addition to the powers an authorized official has an authorized representative of the council under section 101 of the Systems Act or any other legislation, an authorized official, may
 - (a) may search any vehicle or other mode of conveyances 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 manner that conforms to the requirement 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 authorize 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 a warrant, enter and search any premise

associated with the Right 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 authorized 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 the vehicle is serious and immediate danger to human health or to the environment, the authorized 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 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.

39. Powers to question –

- (1) In order to monitor or enforce compliance with these By-laws, the authorized 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 other matter which these By-laws relate, require that the disclosure be made on oath or affirmation.
- (2) An authorized official may be accompanied by an interpreter and any other person reasonably required assisting the authorized official in conducting the inspection.
- (3) An authorized official must, on request, provide his identification as an authorized official.

40. Supervision of licensees –

- (1) An authorized official may inspect the workplace of a licensee not less than twice a year, and an authorized 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 authorized 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 authorized official is of the opinion, after 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 which in the opinion of the authorized official may be relevant.
- (4) If a licensee fails to obtain a certificate confirming compliance after three inspections over a period of two years, the authorized official may recommend that the council review the licence, and should there be reasonable ground, the council may revoke the licence in terms of subsection 2 provided that the consecutive inspections occur at not less than four months intervals.
- (5) Authorized officials must keep a register recording each inspection that has been undertaken.

42. Supervision of owners and occupiers –

Owners and occupiers must keep their premises clean and free from any waste which in the opinion of an authorized 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.

Part III: Enforcement and infringement notices

43. Enforcement notices

- (1) If, in the opinion of the authorized 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 authorized official may issue or cause to be issued on that person an enforcement notice in terms of these sections
- (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 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 authorized by the council, may perform the steps required in the enforcement notice, provided that council does so in conformity with the requirement of the Bill of Rights and any other law, in particular, an authorized 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) and has, within the last five years, been convicted of these offences, may be declared as a serial offender under these By-laws and have its licence revoked immediately.

44. Infringement notices –

(1) If, in the opinion of the authorized official, a person is –

- (a) allowing waste other than domestic waste or dailies to remain uncollected,
- (b) The authorized 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 Criminals 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, is either or both of these being known. Of the person on whom the infringement notices is served;
- (b) state the particulars of the infringement
- (c) specify 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 elect to be tried in court on a charge of having committed an offence under section 44,

(3) Where a person makes an election under section 2(d)(i), the procedure set out in section 50 applies.

45. Complaints

Any person may lodge a complaint with an authorized official, or through any other channel establishment by the council, that any other person is causing harm to human health or damage of the environment by engaging in council services or commercial service, in which event the authorized official, unless he has reasonable ground 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 admit, if he is satisfied that such harm is or is likely to be caused, issue an enforcement notice or infringement notice, whichever be appropriate.

46. Representation –

- (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) Representation must be made by submitting 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 lodge in of the representation.
- (4) The Council, or designated committee or internal functionary, must duly consider the repetitions and any response thereto by an authorize 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 is that, in its

opinion, is necessary. If the council, or designated committee or internal functionary, should conduct 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 so wishes, and the council, or designated committee or internal functionary, must also consider such further response.

- (5) 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 –
 - (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 obligation set out in the enforcement notice.
- (6) If the affected person elects to be tried in court, he must notify the council, or designated committee or internal functionary of his election within seven calendar days, and on receipt of such notification by the council, or designated committee or internal functionary, the provisions of these By-laws apply.
- (7) If the affected person does not elect to be tried in court, he must discharge his 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 requirements 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

46. Service of documents and process

For the purpose 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 waste is generated is deemed to be the place for service of document and process of such owner.

47. 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 –
 - (i) any person that causes waste to be disposed at the waste disposal facility where that person knowingly and without knowledge of the operator disposes waste that, that facility is not permitted to accept; and
 - (ii) any waste generator that knowingly outs waste out for collection that is not of the category being collected

48. 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 altogether 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 minimization;
 - (e) The implementation and operation of recycling; re-use, refundable deposit or take-back schemes;
 - (f) penalties to be prescribed for the violation of licence conditions; and
 - (g) information to be furnished to the council.

49. Repeal of By-laws

The By-laws in Schedule q are hereby repealed in their entity.

50. Date of commencement

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

Schedule 1: LEGISLATION REPEALED