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LOCAL AUTHORITY NOTICE

LOCAL AUTHORITY NOTICE 528

Local Municipality of Madibeng

WASTE MANAGEMENT BY-LAW

In terms of Section 13 (a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as amended, it is hereby made known that the Local Municipality of Madibeng has adopted a by-law relating to Waste Management at a meeting of its Council held on 30 September 2008, as scheduled hereunder.

SCHEDULE

WASTE MANAGEMENT BY-LAW, 2008 (No. 1 of 2008)

For a category B Municipality with an Executive Mayor system

[For a category B local municipality and a type of municipality as contemplated in sections 1(a)(iv) of the North West Municipal Structures Act, 2000 (Act No. 3 of 2000)]

To promote, as required in terms of section 24 of the Constitution of the RSA, 1996 (No. 108 of 1996), the achievement of a safe and healthy environment for the benefit of the residents in the area of jurisdiction of the municipality and to provide for procedures, methods and practices to regulate the management of waste, such as refuse removal and disposal, as well as matters incidental thereto.

Be it enacted by the Municipal Council of the Madibeng Local Municipality in terms of section 11 (3) (m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:-

MADIBENG LOCAL MUNICIPALITY

WASTE MANAGEMENT BY-LAW (NO 1/2008)

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MADIBENG LOCAL MUNICIPALITY

WASTE MANAGEMENT BY-LAW (NO 1/2008)

PREAMBLE

The purpose of this by-law is to promote, as required in terms of section 24 of the Constitution of the RSA, 1996 (No. 108 of 1996), the achievement of a safe and healthy environment for the benefit of the residents in the area of jurisdiction of the municipality and to provide for procedures, methods and practices to regulate the management of waste, such as refuse removal and disposal, as well as matters incidental thereto.

Be it enacted by the Municipal Council of Madibeng Local Municipality in terms of section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) as follows:

CHAPTER 1**1. Definitions**

“abandoned” means any waste having been placed on any side walk or public place and left unattended regardless of whether it is secured or contained in any way;

“basic municipal services” means a municipal service that is necessary to ensure an acceptable and reasonable quality of life and, if not provided, would endanger public health or safety or the environment;

“bin” means a standard type of refuse bin or container approved by the Municipality and “container” has the same meaning;

“bin-liner” means a plastic bag, as prescribed by the municipality, for placement inside a container with a conserving capacity not exceeding 0,1m³ (85 litres);

“builder’s refuse” means any waste or refuse resulting from or generated by the construction, renovation or demolition of a building or other structure or works on any premises;

“bulk container” means any container supplied by the municipality on a temporary basis in 3 or 6m³ sizes or on a permanent basis in 3, 5, 5, 6 or 9m³ sizes for rental by persons for use in disposing of refuse;

"bulky refuse" means any refuse, other than industrial refuse, which emanates from any premises and which by virtue of its mass, shape, size or quantity cannot be conveniently accumulated in or readily removed from a container with a bin liner and excludes objectionable or builders' refuse;

"business refuse" means any refuse generated on any business premises, which can readily be removed by means of and without damaging the bin-liner but excludes garden, builder's bulky, industrial or objectionable refuse;

"charge" means the charge prescribed by the municipality by resolution;

"container" means a standard type of refuse container as approved by the municipality.

"council" means the Madibeng Local Municipality;

"domestic refuse" means any refuse or waste normally emanating from or incidental to the normal occupation of a dwelling, flat, church, hall, hostel, school, old age home or office but shall not include stones, soil, gravel, bricks, waste liquids, night soil, business, or industrial, bulky, garden, builder's or trade refuse;

"dry industrial refuse" means dry refuse generated as a result of manufacturing, maintenance, fabricating and dismantling activities and the activities of railway marshalling yards, but shall exclude builder's, special industrial or domestic refuse;

"garden refuse" means any refuse which is generated as a result of normal gardening activities such as grass cuttings, leaves, plants, flowers, weeds and other similar light matter but shall exclude pruned tree or shrub branches, tree stumps, stones, soil, gravel, bricks etc, and any other garden refuse in quantities of more than 2m³;

"medical waste" means all waste generated in the performance of the professional functions of medical practitioners, dentists and veterinarians, except infectious waste;

"municipality"

- (a) means the Madibeng Local Municipality as established in terms of Section 12 of the Municipal Structures Act, 117 of 1998 and includes any political structure, political office bearer, councillor, duly authorised agent or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

- (b) its successor in title; or
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in this by-law has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government : Municipal Systems Act, 2000; or
- (d) a service provider fulfilling a responsibility under this by-law, assigned to it in terms of section 81(2) of the Local Government : Municipal Systems Act 2000, or any other law, as the case may be.

"municipal service" means, a service that a municipality in terms of its powers and functions provides or may provide to or for the benefit of the local community irrespective of whether –

- (a) such a service is provided, or to be provided, by the municipality through an internal mechanism contemplated in section 76 or by engaging an external mechanism contemplated in section 76; and
- (b) fees, charges or tariffs are levied in respect of such a service or not;

"objectionable refuse" 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 in terms of the Municipality's Water & Sanitation By-law may not be discharged into a drain or sewer or which results from manufacturing, maintenance, fabricating and dismantling activities and the activities of railway marshaling yards, excluding builders refuse or domestic refuse;

"occupier" for the purposes hereof means the person who controls and resides in or who controls and otherwise uses immovable property and includes joint occupiers without regard to the title under which he, she or they occupies it;

"owner" means and includes:

- (a) the person in whom from time to time is vested the legal title to premises, including, but not limited to, the registered owner according to the title deed;
- (b) where the owner of the premises concerned is insolvent, deceased, has assigned his estate for the benefit of his creditors, has been placed under curatorship in terms of an order of court, is a closed

corporation being wound up, or is a company being wound up or under judicial management, and includes the person in whom the administration of such premises is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager as the case may be;

- (c) in any case where the Council is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such premises; and
- (d) the lessee under any registered lease of land which is entered into for a period of not less than ten years or for the natural life of the lessee or any other person mentioned in such lease or which is renewable from time to time at the will of the lessee indefinitely or for a period which together with the first period of such lease amounts in all to not less than ten years, whether or not such renewal is dependent on the periodical consent or permission of, or the periodical renewal of a licence by the State or any statutory licensing body;
- (e) in relation to
 - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act 95 of 1986), the developer or the body corporate in respect of the common property; and
 - (ii) a section as defined in such Act, the person in whose name the relevant unit is registered under a sectional title deed, and includes the lawfully appointed representative of such a person;

and where the text so requires, includes the occupier of a property.

“recyclable waste” means waste set aside for purposes other than being disposed of by landfill or incineration;

“road reserve” means the verge and the roadway of a public road as defined in the Road Traffic Act, 29 of 1989, as amended;

“special industrial refuse” means refuse consisting of a liquid or sludge resulting from a manufacturing process or the pre-treatment for disposal purposes of any industrial liquid waste which may not be discharged into a drain or sewer in terms of the Municipality’s Water and Sanitation By-law;

"tariff" means the tariff of charges as determined from time to time by the municipality by resolution in terms of section 75A of the Local Government: Municipal Systems Act, No. 32 of 2000 as amended;

"trade refuse" means any trade material or trade waste as determined by the municipality and agreed to by the owner or occupier.

"waste management facility" means any facility where waste is taken for transfer, sorting into sub-elements for recycling, composting, incineration or final disposal;

"Waste removal contractor" means any person or company permitted in terms of these by-laws to transport waste.

CHAPTER 2

REMOVAL OF REFUSE

2. PROVISION OF REFUSE REMOVAL SERVICE

- 2(1) The municipality provides a service for the collection and removal of refuse at a tariff determined by resolution from time to time in terms of section 75A of the Local Government: Municipal Systems Act, 2000 (No. 32 of 2000), as amended: Provided that the rendering of a particular service in a particular area is subject to the approval of the municipality.
- 2(2) If required by the Municipality, the occupier of premises where refuse is generated, shall avail himself of the service provided by the Municipality for the collection and removal of such refuse.
- 2(3) The owner or occupier of the premises on which the refuse is generated, shall be liable for the payment of the tariff charges in respect of any service provided by the Municipality for the collection and removal of such refuse.
- 2(4) No other person other than the municipality or service provider appointed by it shall remove refuse from any premises or dispose of it in any manner whatsoever unless authorized by the municipality;

3. NOTICE TO MUNICIPALITY

- 3(1) The occupier of the premises, or if there is more than one occupier, the owner of such premises, shall within seven days after the commencement of the generation of refuse on a premises, notify the Municipality

- (a) that the premises is being occupied;
 - (b) whether builders refuse or bulky refuse or business refuse or domestic refuse or objectionable refuse is being generated on the premises;
 - (c) regarding the estimated volume of such refuse being generated.
- 3(2) The number of refuse bins required or deemed to be necessary on any premises shall be directed or decided upon by the Municipality.

4. PROVISION OF CONTAINERS

- 4(1) The Municipality shall determine the type and number of containers (which must have a close-fitting lid and two handles) required on a premises.
- 4(2) The owner of a premises shall be responsible for the supply of the predetermined number and type of containers, required by the Municipality.
- 4(3) If a container is supplied by the Municipality, such container shall be supplied free of charge, or at ruling prices or at a hiring tariff, as the Municipality may determine.
- 4(4) Where a container is supplied free of charge or at a hiring tariff by the Municipality, such container shall remain the property of the Municipality and the owner of the premises shall be liable to the Municipality for the loss of or damage to such container.
- 4(5) The municipality may, at anytime, remove some of the containers or deliver additional containers if in its opinion a lesser or greater number of containers is required on the premises.

5. PLACING OF CONTAINERS

- 5(1) The owner or occupier of premises shall provide sufficient space for the storage of the containers on the premises as approved by the Municipality.
- 5(2) The space provided in terms of section 5(1) shall be in such a position on the premises as will allow the storage of containers without their being visible from a street or public place, unless otherwise directed by the Municipality.

- 5(3) All containers with a conserving capacity not exceeding 0,1 m³, in which business or domestic refuse is placed, shall be equipped with bin liners of at least 950 x 750 mm and 25 micrometer thick or as may be determined by the Municipality from time to time, and such bin liners shall be supplied by the occupant or owner, unless otherwise determined by the Municipality.
- 5(4) (a) Bin liners containing refuse, properly closed, shall be placed on the outside of the premises next to the fence on the street boundary, near the entrance or driveway entrance, only on the day of removal, as determined by the Municipality.
- (b) If the premises are not fenced, such bin liners shall be placed immediately outside the boundary of the premises.
- 5(5) If required by the Municipality, the place of collection shall be so located as to permit convenient access to and regress for the Municipality's refuse collection vehicles.
- 5(6) A sufficient area shall be provided to keep a special container for the storage of refuse as described in section 6 (1) (a) (i), apart from the space necessary for the storage of refuse not kept in a special container.
- 5(7) The Municipality may at its discretion indicate a position from where refuse may be removed more conveniently.
- 5(8) Notwithstanding any provision to the contrary, the Municipality may-
- (a) in the case of buildings erected, or buildings of which the building plans have been approved prior to the coming into operation of this by-law; and
- (b) in the event of the Municipality, in its opinion, being unable to collect and remove refuse from the space provided in terms of section 6(1).

having regard to the avoidance of nuisance or the convenience of collection of refuse, indicate a position within or outside the premises where the container(s) shall be placed for the collection and removal of such refuse and such container(s) shall then be placed in such position at such times and for such periods as the Municipality may prescribe.

6. USE AND CARE OF CONTAINERS AND BIN LINERS

- 6(1) The occupier of premises, or in the case of premises being occupied by more than one occupant, the owner of such premises, shall ensure that-
- (a) all the domestic or business refuse generated on the premises is placed and kept in bin liners for removal by the Municipality: Provided that the provisions of this subsection shall not prevent any occupier, or owner, as the case may be-
 - (i) who has obtained the Municipality's prior written consent, from selling or otherwise disposing of any swill, corrugated cardboard, paper, glass or other waste material for recycling in a manufacturing process or, in the case of swill, for consumption;
 - (ii) from utilising such domestic refuse as may be suitable for making compost, provided that the refuse remains on the premises and does not cause a nuisance;
 - (b) no hot ash, glass fragments or other business or domestic refuse which may cause damage to bin liners or injury to the Municipality's employees while carrying out their duties in terms of this By-law, is placed in bin liners before he/she has taken the necessary precautions to avoid such damage or injury;
 - (c) no material, including any liquid which, by reason of its mass or other characteristics is likely to render such bin liners too difficult for the Municipality's employees to handle or carry, is placed in such bin liners;
 - (d) every container on the premises which is provided with a close-fitting lid, is covered except when refuse is being deposited therein or discharged therefrom, and that every container is kept in a clean and hygienic condition.
- 6(2) No container may be used for any purpose other than that for which it is supplied and no fire shall be lit in such container.
- 6(3) The bin liners containing refuse shall be removed by the Municipality only if such bin liners have been placed at the prescribed places, as provided for in section 5, at such intervals as the Municipality may deem necessary.

- 6(4) The Municipality shall not be liable for the loss of or for any damage to a container or bin liner.

CHAPTER 3

GARDEN REFUSE

7. REMOVAL AND DISPOSAL OF GARDEN REFUSE

- 7(1) The occupier or, in the case of premises occupied by more than one occupant, the owner of the premises on which the garden refuse is generated, shall ensure that such refuse be disposed of within a reasonable time after the generation thereof: Provided that garden refuse may be retained on the premises for the making of compost if it will not cause a nuisance or a health or fire hazard.
- 7(2) Subject to the provisions of section 2 (2) and 2(4), any person may remove and dispose of garden refuse.
- 7(3) Garden refuse shall, once it has been removed from the premises on which it was generated be deposited on a site designated by the Municipality as a disposal site for such garden refuse.
- 7(4) No person shall dump any garden refuse on sidewalks, roads, parks, public places, empty erven or any place not specifically designated for the disposal of refuse.

8. THE MUNICIPALITY'S SPECIAL SERVICE

- 8(1) At the request of the occupier or owner of any premises, the Municipality shall remove bulky garden and other bulky refuse from premises, provided that the Municipality is able to do so with its refuse removal equipment. All such refuse shall be placed within 3 m of the boundary loading point, but not on the sidewalk.
- 8(2) The Municipality may determine that certain garden refuse shall be placed and kept in bin liners in which event the stipulations of section 5 shall *mutatis mutandis* apply.

CHAPTER 4

BUILDERS REFUSE

9. RESPONSIBILITY FOR BUILDERS REFUSE

- 9(1) The owner of premises on which builders refuse is generated and the person engaged in the activity which causes such refuse to be generated, shall ensure that such refuse be disposed of in terms of section 10 within a reasonable time after the generation thereof: Provided that a reasonable time does not exceed 7 days.
- 9(2) Any person may operate a builders refuse removal service. Should the Municipality provide such a service, it shall be done at the prescribed tariff charge.

10. DISPOSAL OF BUILDERS REFUSE

- 10(1) Subject to the provisions of subsection (2) all builders refuse shall be deposited at the Municipality's refuse disposal sites.
- 10(2) For the purpose of reclamation of land, builders refuse may with the written consent of the Municipality, be deposited at a place other than the Municipality's refuse disposal sites.
- 10(3) No person shall dump any builders refuse on sidewalks, roads, parks, empty erven or any place not specifically designated for the disposal of builder's rubble.
- 10(4) Any consent given in terms of subsection 9(2) shall be subject to such conditions as the Municipality may deem necessary: Provided that in giving or refusing its consent or in laying down conditions the Municipality shall have regard to-
 - (a) the safety of the public;
 - (b) the environment of the proposed disposal site;
 - (c) the suitability of the area including the drainage thereof;
 - (d) the expected manner and times of depositing of refuse at the site;
 - (e) the leveling of the site;
 - (f) the control of dust;
 - (g) other relevant factors.

CHAPTER 5**BULKY REFUSE****11. REMOVAL AND DISPOSAL OF BULKY REFUSE**

11(1) The occupier or, in the case of premises occupied by more than one person, the owner of the premises on which bulky refuse is generated, shall ensure that such refuse be disposed of in terms of this Chapter within a reasonable time after the generation thereof.

11(2) Any person may remove and dispose of bulky refuse.

11(3) Bulky refuse shall, once it has been removed from the premises on which it was generated, be deposited on a site designated by the Municipality as a disposal site for such refuse.

12. THE MUNICIPALITY'S SPECIAL SERVICE

12(1) At a request of the owner or any occupier of any premises the Municipality shall remove bulky refuse from premises at the prescribed tariff, provided that the Municipality is able to do so with its refuse removal equipment.

CHAPTER 6**OBJECTIONABLE REFUSE****13. NOTIFICATION OF GENERATION OF OBJECTIONABLE OR SPECIAL INDUSTRIAL REFUSE**

13(1) The owner or occupier of premises on which objectionable or special industrial refuse is generated, shall, inform the Municipality of the composition thereof, the quantity generated, how it is stored and how and when it will be removed.

13(2) If so required by the Municipality, the notification referred to in subsection (1) shall be sustained by an analysis certified by a qualified chemist or a person nominated by the Municipality.

13(3) The Municipality or any person authorized by the Municipality may enter premises at any reasonable time to ascertain whether objectionable or special industrial refuse is generated on such premises and may take samples and test any refuse found on the premises to ascertain its composition.

13(4) The owner or occupier of premises on which objectionable or special industrial refuse is generated, shall notify the Municipality of any changes in the composition and quantity of the objectionable refuse occurring thereafter.

14. STORING OF OBJECTIONABLE OR SPECIAL INDUSTRIAL REFUSE

14(1) The person referred to in section 13 (1) shall ensure that the objectionable or special industrial refuse generated on the premises shall be kept and stored thereon in terms of section 14 (2) until it is removed from the premises in terms of section 15.

14(2) Objectionable or special industrial refuse stored on premises shall be stored in such manner that it does not cause a nuisance or pollute the environment.

14(3) If objectionable or special industrial refuse is not stored in terms of subsection (2) on the premises on which it is generated, the Municipality may order the owner or occupier of the premises to remove such refuse within a reasonable time and, if thereafter the refuse is not removed within such time, the Municipality may by itself or through a contractor remove it at the expense of the owner or occupier.

15. REMOVAL OF OBJECTIONABLE OR SPECIAL INDUSTRIAL REFUSE

15(1) No person shall remove or dispose of objectionable or special industrial refuse from the premises on which it was generated without, or otherwise than in terms of the written consent of the Municipality.

15(2) The Municipality may give its consent in terms of subsection (1) subject to such conditions as it may deem fit: Provided that in laying down conditions the Municipality shall have regard to-

- (a) the composition of the objectionable or special industrial refuse;
- (b) the suitability of the vehicle and container to be used;
- (c) the place where the refuse shall be deposited;
- (d) proof to the Municipality of such depositing.