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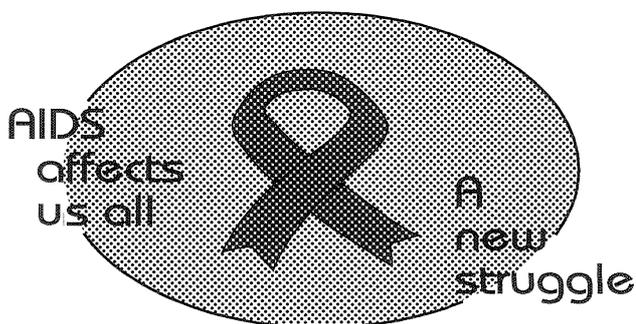
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## **LOCAL AUTHORITY NOTICE**

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### **LOCAL AUTHORITY NOTICE 79**



**Waste Management By-laws  
Rustenburg Local Municipality**

**Version1 of 2011**

Under the provision conferred by section 156(2) of the constitution of the republic of south Africa Act, 1996(Act no.108 of 1996), and section 9 (5) (a) of the National Environmental Management: Waste Act, (Act No.59 of 2008) the Rustenburg Local Municipality adopts the following Waste Management By-Law:

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## CHAPTER 1: INTERPRETATION AND FUNDAMENTAL PRINCIPLES

1.1. In this By-law unless the context indicates a contrary intention, an expression which denotes:

- I. any gender includes the other gender
- II. a natural person includes a juristic person and vice versa;
- III. the singular includes the plural and visa versa.

1.2 In this by – law the following expressions bear the meanings assigned to them below and cognate expressions bear corresponding meanings, unless such meanings are inconsistent with the context in which they occur

### 2. Definitions

In this By-law unless the context shows otherwise –

- (a) **“approved”** in the context of container means approved by the Municipality for the collection and storage of waste;
- (b) **“authorised official”** means any official of the Municipality who has been authorised by the Municipality to administer, implement and enforce the provisions of these By-laws;
- (c) **“building waste”** includes all waste produced during the construction, alteration, repair or demolition of any structure and includes rubble, earth, vegetation and rock displaced during such construction, alteration, repair or demolition;
- (d) **“bulky waste”** means business or domestic waste which by virtue of its mass, shape, size or quantity cannot be stored in an approved container or which is inconvenient to remove as part of the municipal service described in Chapter 4;
- (e) **“business waste”** means waste, other than hazardous waste and healthcare risk waste which is generated on land or premises used wholly or mainly for commercial, retail, wholesale, entertainment, charitable or government administration purposes;
- (f) **“collection service”** means the service provided by the Municipality to collect and dispose of waste in accordance with these by-laws;
- (g) **“Constitution”** means the Constitution of the Republic of South Africa, 1996 (Act No.108 of 1996);
- (h) **“container”** means a disposable or reusable vessel in which waste is placed for storage, handling, transportation, treatment or disposal and includes bins, bin liners, mass containers, skip containers and wrappers;
- (i) **“domestic waste”** means waste, including hazardous waste that emanates from premises used wholly or mainly for residential, healthcare, sports or recreation purposes;
- (j) **“environment”** has the meaning assigned to it in section 1 of the National Environmental Management Act;
- (k) **“garden waste”** means waste generated as a result of normal gardening activities, including grass cuttings, leaves, plants, flowers and other similar

small and light organic matter;

- (l) **“Gazette”** means the North West Provincial Gazette;
- (m) **“hazardous waste”** means any waste that contains organic or inorganic elements of compounds that owing to the inherent physical, chemical or toxicological characteristics of that waste, have a detrimental impact on health and the environment;
- (n) **“healthcare risk waste”** means waste potentially capable of producing a disease and includes –
  - (i) laboratory waste;
  - (ii) pathological waste;
  - (iii) isolation waste;
  - (iv) genotoxic waste;
  - (v) infectious liquids and infectious waste;
  - (vi) sharps waste;
  - (vii) chemical waste; and
  - (viii) pharmaceutical waste;
- (o) **“local community”** in relation to the Municipality means that body of persons comprising-
  - (i) the residents in the municipal area,
  - (ii) the ratepayers of the Municipality,
  - (iii) any civic, non-governmental, private sector or labour organisation or body or organ of state which is involved in local affairs within the municipal area, and
  - (iv) visitors and other people residing outside of the municipal area who, because of their presence in that area, make use of services or facilities provided by the Municipality;
- (p) **“mass container”** means a container with a capacity of 6 cubic metres or more that is used for the storage of domestic waste;
- (q) **“municipal service”** means the service provided by the Municipality in accordance with Chapter 4 of these By-laws relating to the collection and disposal of waste, including domestic waste, business waste and putrescible waste;
- (r) **“Municipal Systems Act”** means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);
- (s) **“Municipality”** means the Rustenburg Local Municipality established by Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) and includes –
  - (i) its successor-in-title;
  - (ii) a structure or person exercising a delegated power or carrying out an

- instruction, where any power in these By-laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Municipal Systems Act, 2000 (Act No. 32 of 2000); or
- (iii) a service provider fulfilling a responsibility under these By-laws, assigned to it in terms of section 81(2) of the Systems Act, 2000, or any other law;
- (t) **“National Environmental Management Act”** means the National Environmental Management Act, 1998 (Act No. 107 of 1998) and any regulations or notices passed pursuant thereto;
- (u) **“National Environmental Management: Waste Act”** means the National Environmental Management: Waste Act, 2008( Act No. 59 of 2008) and any regulations or notices passed pursuant thereto;
- (v) **“nuisance”** means any 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;
- (w) **“occupier”** includes any person in actual occupation of land or premises without regard to the title under which he or she occupies, and, in the case of land or premises let, 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;
- (x) **“organ of state”** has the meaning assigned to it in section 239 of the Constitution;
- (y) **“owner”** includes any person who has the title to land or premises or any person receiving the rent or profits of land or premises, or who would receive such rent or profits if such land or premises were let, whether for his or her own account or as an agent for any person entitled thereto or interested therein and in relation to land or premises on a sectional title register opened in terms of section 12 of the Sectional Titles Act, 1986 (Act No. 95 of 1986), means the body corporate as defined in that Act; beneficiary of a usufruct over immovable property or the fiduciaries of municipal property, and where the text so requires, includes the occupier of a property;
- (z) **“pollution”** has the meaning assigned to it in section 1 of the National Environmental Management Act;
- (aa) **“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 –
- (i) the verge of any such road, street or thoroughfare;
  - (ii) any bridge or drift traversed by any such road, street or thoroughfare; and
  - (iii) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;
- (bb) **“putrescible waste”** means waste generated by hotels, restaurants, food shops, hospitals, and canteens that must be collected on a more frequent basis than other types of waste, to prevent the waste from decomposing and

- presenting a nuisance or an environmental or health risk;
- (cc) **“recycle”** means reclaiming waste for further use and includes the separation of the waste from the waste stream for further use and processing of the separate material as the product or raw material;
  - (dd) **“service provider”** means a person or institution or any combination of persons or institutions which provide a municipal service as defined in section 1 of the Municipal Systems Act;
  - (ee) **“skip container”** means a container with a capacity of 4 cubic metres or more that is used for the storage of garden waste and building and demolition waste;
  - (ff) **“special industrial waste”** means waste consisting of a liquid, sludge or solid substance, resulting from a manufacturing, industrial or mining process or the treatment or pre-treatment process for disposal purposes of any industrial or mining waste;
  - (gg) **“tariff”** means the prescribed charge determined by the Municipality in terms of any applicable legislation for any service rendered by the Municipality in terms of these By-laws;
  - (hh) **“waste”** includes any substance, whether solid, liquid or gaseous, which is discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause an alteration to the environment, a surplus substance or which is discarded, rejected, unwanted or abandoned, re-used, recycled, reprocessed, recovered or purified by a separate operation from that which produced the substance or which may be or is intended to be re-used, recycled, reprocessed, recovered, or purified, identified as waste by prescribed regulation;
  - (ii) **“waste disposal facility”** means any site or premises used for accumulation of waste with the purpose of that waste at that site or on those premises;
  - (jj) **“waste handling facility”** means any facility on or in which waste is accepted, accumulated, handled, recycled, sorted, stored or treated prior to its transfer for treatment by way of incineration or for final disposal;
  - (kk) **“wrapper”** means a plastic or other approved material covering that totally encloses bales or slugs of compacted waste.

### 3. Objects of these By-laws

The objects of these By-laws are –

- (a) to provide for the effective delivery of the municipal service;
- (b) to protect the environment by providing reasonable measures for -
  - i. ensuring that waste management, including the storage, collection, transportation, treatment and disposal of waste, is undertaken in a comprehensive and responsible manner;
  - ii. minimising the consumption of natural resources;

- iii. the minimisation of the generation of waste;
  - iv. the reuse and recycling of waste;
  - v. the safe disposal of waste; and
  - vi. achieving integrated waste planning.
- (c) generally to give effect to section 24 of the Constitution in order to secure an environment that is not harmful to the health and well-being of people.

#### **4. General duty of the Municipality**

In fulfilling the rights contained in section 24 of the Constitution, the Municipality –

- (a) must seek to reduce the amount of waste that is generated and, where waste is generated, strive to ensure that waste is recycled or re-used in a responsible and environmentally sound manner before being disposed of; and
- (b) must apply these By-laws in a manner that will achieve the progressive realisation of those rights.

#### **5. Duty of the Municipality to provide a municipal service**

- (1) The Municipality has an obligation to the local community to progressively ensure efficient, effective, affordable, economical and sustainable waste collection services.
- (2) The duty referred to in subsection (1) is subject to –
  - (a) the need for an equitable allocation of services to all people in the municipal area;
  - (b) the obligation of the local community to pay any reasonable prescribed tariff or charge;
  - (c) the right of the Municipality to differentiate between categories of users and geographical areas when setting service standards and levels of service for the provision of municipality services; and
  - (d) the right of the Municipality to limit the provision of collection services if there is a failure to comply with reasonable conditions set for the provision of such services: provided that where the Municipality takes action to limit the provision of services, the limitation shall not pose a risk to human health or the environment.
- (3.) The Municipality must take the following factors into account in ensuring access to collection services –
  - (a) the general duty set out in section 3;
  - (b) the need to use resources efficiently;
  - (c) the need for service delivery to be affordable;
  - (d) the requirements of operational efficiency;
  - (e) the requirements of equity; and
  - (f) the need to protect human health and the environment.

## **6. Application of the National Environmental Management Act**

- (1) These By-laws must be read with any applicable provisions of the National Environmental Management Act.
- (2) The interpretation and application of these By-laws must be guided by the national environmental management principles set out in section 2 of the National Environmental Management Act.

## **7 Conflicts with other legislation**

- (1) In the event of any conflict between a section of these By-laws and national or provincial legislation, the national legislation prevails.

## **CHAPTER 2: WASTE MANAGEMENT PLANNING**

### **8 Development of Waste Management Plan**

- (1) The Municipality must include in its integrated development plan contemplated in Chapter 5 of the Municipal Systems Act, a waste management plan for its area of jurisdiction.
- (2) The Municipality may amend a waste management plan from time to time and must review a waste management plan at least every five years.

### **9 Contents of Waste Management Plan**

- (1) The waste management plan must be consistent with any relevant provincial waste management plan and must –
  - (a) seek to –
    - (i) give effect to the objects of these By-laws;
    - (ii) identify and address the negative impact of poor waste management practises on health and the environment;
    - (iii) provide for the implementation of waste minimisation, recycling and re-use programmes;
    - (iv) provide for the delivery of waste management services to all residential and business premises;
    - (v) ensure that there are adequate disposal facilities for the disposal of waste;
    - (vi) identify measures that are required to give effect to the objects of these By-laws;
    - (vii) ensure that members of the public have access to education and awareness initiatives on waste management matters; and

- (viii) give effect to best environmental practice in respect of waste management.
- (b) include such other matters as may be required by any other legislation; and
- (c) describe how the Municipality will give effect to its waste management plan.

### **CHAPTER 3: WASTE INFORMATION SYSTEM**

#### **10 Establishment of waste information system**

- (1) The Municipality may establish and maintain a waste information system for the collection and management of information.
- (2) The waste information system must comply with the requirements of any national or provincial legislation regulating the collection and management of information on waste and may include information on –
  - (a) significant sources of waste generation;
  - (b) the quantity, type, characteristics and composition of waste generated, re-used, recycled, recovered, transported, treated and disposed of;
  - (c) the impacts of the generation, storage, re-use, recycling, recovery, treatment and disposal of waste on the environment;
  - (d) matters that are necessary for waste management planning and service delivery;
  - (e) compliance with these By-laws; and
  - (f) any other matter that is necessary for the purposes of administering an effective waste management system.

#### **11 Purpose of waste information system**

- (1) The purpose of the waste information system is to –
  - (a) record and provide data and information for waste management planning undertaken by the Municipality;
  - (b) monitor waste management generally;
  - (c) provide information to organs of state and the public –
    - (i) for education, research and development purposes;
    - (ii) for planning and the undertaking of environmental impact assessments;
    - (iii) for public safety and disaster management;
    - (iv) on the status of waste generation, transportation, treatment and disposal; and
    - (v) the impacts of waste on the environment.

## 12 Provision of information

The Municipality may by notice in the *Gazette*, or in writing, require any person or organ of state to provide any data, information, documents, samples or materials to the Municipality that are reasonably required for the purposes of the waste information system or the management of waste, within a reasonable time or on a regular basis.

## 13 Access to information

- (1) The public is entitled to the information contained in the waste information system subject to any limitations imposed by law and the payment of a reasonable charge determined by the Municipality.
- (2) The Municipality must take steps to ensure that the information provided to the public is in a reasonably accessible format.

## CHAPTER 4: MUNICIPAL SERVICE

### 14 Provision of municipal service

- (1) The Municipality must as far as reasonably possible and subject to these By-laws, provide a municipal service –
  - (a) for the collection of domestic and business waste on a regular basis; and
  - (b) for the collection of putrescible waste on a frequent basis.
- (2) The Municipality may offer a municipal service in respect of the wastes regulated in Chapter 5.
- (3) In addition to any other service provided by the Municipality, the Municipality must take measures to facilitate the recycling and re-use of waste.

### 15 Basis on which municipal service is provided

- (1) In providing a municipal service, the Municipality may determine, in writing or by notice in the *Gazette* -
  - (a) containers that are approved for the purposes of the municipal service;
  - (b) the maximum quantity of waste that will be collected without the need for an additional service or payment of an additional fee;
  - (c) the locations from which waste will be collected;
  - (d) types of waste that are not suitable for collection;
  - (e) types of waste that must be stored separately from any other waste;
  - (f) in the case of domestic and business waste, the frequency and times of the collection service;
  - (g) which residential or commercial land or premises require an increased frequency of collection for reasons of health, safety or environmental protection; and
  - (h) requirements in respect of access to areas used for storing waste on land or premises that are constructed or reconstructed after the commencement of this By-laws.

- (2) Any container provided by the Municipality to for the purposes of these By-laws remains the property of the Municipality.

## **CHAPTER 5: GENERAL WASTE MANAGEMENT MEASURES**

### *Part 1: Waste minimisation, recycling and re-use*

#### **16 Requirements in respect of waste minimisation, recycling and re-use**

- (1) Nothing in these By-laws shall be construed as prohibiting the recycling or re-use of waste that is not hazardous.
- (2) Recyclable waste must be taken to a waste handling facility which is appropriately permitted, if applicable.

### *Part 2: Transportation and disposal of waste*

#### **17 Transportation of waste**

- (1) Any person who transports waste must take all reasonable steps to prevent spillage of the waste or littering from a vehicle used to transport waste.
- (2) Any waste that is accidentally spilled from a vehicle must be promptly cleaned up or retrieved.
- (3) Where waste is transported for the purposes of treatment or disposal, a person transporting the waste must ensure that the facility or place to which the waste is transported is authorised to accept such waste prior to offloading the waste from the vehicle.
- (4) A person who is in control of a vehicle, or in a position to control the use of a vehicle which is used to transport waste for the purpose of disposing of the waste is deemed to knowingly cause that waste to be disposed of.
- (5) Every person who intends transporting special industrial, hazardous or radioactive waste through the area of the Municipality must notify the Municipality, in writing, of —
  - (a) the substances to transported;
  - (b) the times when the substances will be transported;
  - (c) the transportation routes that will be used; and
  - (d) contingency arrangements that have been made in respect of any accident or emergency incident that may occur;
- (6) On receipt of a notice in terms of subsection (4), the Municipality may indicate that an alternate time or route of transportation must be followed.

**18 General requirements for the disposal of waste**

- (1) Waste generated within the area of the Municipality must be disposed of at a waste disposal facility that has been permitted to accept such waste in terms of the provisions of any law regulating the disposal of waste.
- (2) No person shall burn any waste except at an incinerator permitted to accept such waste in terms of the provisions of any law regulating the disposal of waste.

**19 Disposal of specified wastes**

- (1) The Municipality may by notice in the Gazette direct that waste specified in the notice must be disposed of at a designated waste disposal facility or waste handling facility.
- (2) No person may dispose of waste specified in a notice in terms of subsection (1) at a waste disposal facility or waste handling facility which is not designated in the notice.

**20 Conduct at waste disposal facility, mini disposal sites and transfer stations**

- (1) Any person who enters a waste disposal facility must –
  - (a) enter the waste disposal facility at an access point designated by the person in charge of the waste disposal facility;
  - (b) present the waste for weighing in a manner required by the Municipality, if required to do so;
  - (c) provide the Municipality, or person in charge of the waste disposal facility, drop off site and Transfer Stations on request, with information regarding the composition of any waste brought to the facility;
  - (d) comply with any instruction issued by the person in charge of the waste disposal, Drop off site and Transfer Stations, facility with regard to access to the actual place where, and the manner in which, the waste should be deposited;
  - (e) comply with any other conditions imposed by the Municipality from time to time; and
  - (f) pay any applicable charge.
  - (g) No person enter a landfill site or refuse transfer station or mini disposal site controlled by the council for any purpose other the disposal of refuse in terms of these By- law, and then only at such times and between such hours as the council may from time to time determine and as displayed at the waste disposal site.
- (3) No person may –
  - (a) enter a waste disposal facility, Drop off site and Transfer Stations for any purpose other than the disposal of waste in terms of these By-laws, unless

- authorised to do so by the operator and then only at such times and on such conditions as the Municipality or operator may from time to time determine;
- (b) dispose of waste at a waste disposal facility, Drop off site and Transfer Stations which is not permitted for such waste; or
  - (c) light a fire upon or near any disposal facility, Drop off site and Transfer Stations area without authorization.
- (4) Any person who contravenes subsection (2) will be liable for all reasonable costs incurred by the Municipality in remedying the situation;
- (5) The Municipality, operator or any other persons duly authorized by the Municipality may 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.
- (6) Any person contravening any of the provisions of this section shall be guilty of an offence and may be refused entry or removed from a waste disposal facility.

### *Part 3: Littering, dumping and abandoned articles*

#### **21. Prohibition of littering**

- (1) No person may litter or cause the littering of waste.
- (2) Littering shall include the –
  - (a) throwing, dropping or discarding of litter onto any place other than a place or container that has been specifically provided for that purpose;
  - (b) sweeping of waste into a gutter, onto a road reserve or onto any other public place;
  - (c) depositing domestic, commercial or garden waste in a container designed for the depositing of litter; and
  - (d) disturbing or removing litter from a container which has been placed for the purposes of collecting litter in such a way that the litter is spilled.
- (3) Notwithstanding the provisions of subsections (1) and (2) above, the Municipality, or owner in the case of privately owned land to which the public has access, shall within a reasonable time after any litter has been discarded, dumped or left behind, remove such litter or cause it to be removed before the litter becomes a nuisance or ground for complaint.

## **22. Duty to provide facilities for litter**

- (1) The Municipality, or owner in the case of privately owned land, must ensure that sufficient containers or places are provided for the discarding of litter by the public, in any place to which the public has access.
- (2) The Municipality, or owner of privately owned land, must ensure that a container that is provided for the purposes of collecting litter is –
  - (a) maintained in good condition;
  - (b) suitably weighted and anchored so that it cannot be inadvertently overturned;
  - (c) constructed in such a manner as to ensure that it is weatherproof and animal proof;
  - (d) of suitable size to contain all litter generated on the land or premises;
  - (e) placed in a location convenient for the use of users or occupants of the land or premises to discourage littering or the unhealthy accumulation of waste; and
  - (f) is emptied and cleansed when it becomes full.

## **23. Prohibition of dumping and abandoning articles**

- (1) No person may deposit or permit the depositing of any waste whether for gain or reward or otherwise, upon any land, in any building of which he or she is the owner or occupier or in any sewer, stormwater, drainage system or watercourse unless the depositing of the waste is in accordance with these By-laws or any other legislation regulating the management of waste.
- (2) Subject to any provisions to the contrary contained in these By-laws, no person may –
  - (a) leave any article or allow any article under his or her control to be left at a place with the intention of abandoning it;
  - (b) carry out an activity described in (a) in such a manner or in such circumstances that would cause reasonable person to consider that the article had been left with the intention of abandoning it.
- (3) Any article, other than a motor vehicle deemed to have been abandoned in contemplated in regulation 320 of the National Traffic Regulations, 2000 made under the National Road Traffic Act, 1996, and 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, may be reasonably regarded by the Municipality to have been abandoned, may be removed and disposed of by the Municipality.
- (4) The Municipality may remove and dispose of any article which is chained or fastened to any pole, parking meter or other property belonging to the Municipality without authorisation.

**CHAPTER 6: MANAGEMENT OF DOMESTIC, BUSINESS AND PUTRESCIBLE WASTE, GARDEN AND BULKY WASTE, BUILDING WASTE, INDUSTRIAL AND RECYCLABLE WASTE AND SPECIAL INDUSTRIAL, HAZARDOUS AND HEALTH CARE RISK WASTE**

*Part 1: Domestic, business and putrescible waste*

**24. Obligations of generators of domestic waste, business waste and putrescible waste**

- (1) Domestic waste, business waste and putrescible waste must be stored in an approved container by the generator of that waste: Provided that business waste must be compacted and stored in a wrapper where required by the Municipality in writing.
- (2) No person may allow an animal in his or her control to interfere with, overturn or damage a container, which has been placed for collection.
- (3) The occupier of land or premises must ensure that –
  - (a) no hot ash, unwrapped glass, health care waste or other domestic, business or putrescible which may cause damage to approved container or injury or harm to the Municipality's employees is placed in an approved container
  - (b) no material, including any liquid, which by reason of its mass or other characteristics is likely to render an approved container unreasonably difficult for employees of the Municipality to lift, handle or carry is placed in an approved container;
  - (c) every approved container on the land or premises is kept closed except when waste is being deposited into it or the container is being emptied;
  - (d) every approved container is kept in a clean and hygienic condition;
  - (e) no approved container supplied by the Municipality is used for any purpose other than the storage of domestic waste, business waste or putrescible waste;
  - (f) an approved container is placed outside the entrance of the land the premises before a time and on a day of the week specified by the Municipality, except where the Municipality has indicated, in writing, that it is satisfied that a person is physically infirm or otherwise incapable of complying with this provision;
  - (g) an approved container, placed in accordance with paragraph (f) is not damaged and is properly closed so as to prevent the dispersal of its contents; and
  - (h) putrescible waste is stored separately from other types of waste.
- (4) The owner or occupier of land or premises must provide a space, and any other facility considered necessary by the Municipality, on the land or premises for the storage of approved containers which must –

- (a) be in a position on the land or premises which will allow the storage of any approved container without it being visible from a public road or public place;
  - (b) in the case of putrescible waste being generated on the land or premises and where approved containers are not placed on the kerb for collection, be in a position which will allow for the collection and removal of that waste by the Municipality's employees without hindrance; and not be more than 20 metres from the entrance to the land or premises for the collection of waste by the Municipality;
  - (c) be located in such a manner that, where approved containers are not placed on the kerb for collection, access to space for the Municipality's waste collection vehicles is convenient; and
  - (d) comply with any further requirements imposed by the Municipality by written notice to the owner or occupier of the land or premises.
- (5) The owner of land or premises must pay the prescribed fee to the Municipality for the municipal service, irrespective of the extent to which the owner makes use of the service.
- (6) The prescribed fee referred to in subsection (5) becomes due and payable on the date indicated in the account submitted by the Municipality.

***Part 2: Garden and bulky waste***

**25. Generation, use and storage of garden waste and bulky waste**

- (1) Garden waste may be composted: Provided that such composting does not cause a nuisance through odour or the attraction of vectors.
- (2) On the written request of the owner or occupier of the land or premises on which garden waste or bulky waste is generated, the Municipality may deliver an approved container for the purpose of storing that waste.

**26. Collection and disposal of garden waste and bulky waste**

- (1) The owner or occupier of land or premises on which garden waste is generated and which is not composted, or on which bulky waste is generated, must ensure that the garden waste or bulky waste is disposed of within a reasonable time after the generation of the waste and before the waste causes a nuisance or health risk.
- (2) Any person who collects or removes garden waste or bulky waste from the land or premises on which it was generated must –
  - (a) take the garden waste to a composting facility; or
  - (b) dispose of the waste at a garden waste handling facility, subject to the provisions of subsection (3), or another facility designated by the Municipality for that purpose and in accordance with the provisions of these By-laws.

- (3) A person who collects and removes garden waste as part of a garden service may not dispose of that waste at a garden waste handling facility unless permitted to do so by the Municipality.

### ***Part 3: Building waste***

#### **27 Generation of building waste**

- (1) The owner or occupier of land or premises on which building waste is generated must notify the Municipality, in writing and at least 14 days before the waste will be generated, of the owner or occupier's intention to generate building waste and the manner in which it will be removed and disposed of.
- (2) The owner or occupier of land or premises on which building waste is generated must ensure that –
- (a) until such time as the building waste is removed from the land or premises, all building waste, together with the containers used for the storage of the waste, is kept on the land or premises on which the waste was generated;
  - (b) the land or premises on which the building waste is generated do not become unsightly or the source of a nuisance as a result of the accumulation of building waste or dust;
  - (c) any building waste that is blown off the land or premises is promptly retrieved; and
  - (d) any instructions from the Municipality in respect of structures that are necessary to contain the building waste are complied with.

#### **28 Storage of building waste**

- (1) Building waste must be stored separately from any other waste that may be generated on the land or premises.
- (2) The owner or occupier of the land or premises on which building waste is generated must ensure that –
- (a) until such time as the building waste is removed from the land or premises, all building waste, together with the containers used for the storage of the waste, is kept on the land or premises on which the waste was generated; and
  - (b) any instructions from the Municipality in respect of structures that are necessary to contain the building waste are complied with.
- (3) Every container used for the storage of building waste must –
- (a) have the name, address and telephone number of the person in control of such container clearly marked on it;
  - (b) be fitted with reflecting chevrons or reflectors that completely outline the front and the back of the container; and
  - (c) be covered at all times except when waste is being deposited into the container or when the container is being emptied.

- (4) The Municipality may determine the conditions in terms of which an approved container for the storage of building waste may be placed in the road reserve.

## **29 Collection and disposal of building waste**

- (1) All building waste must be disposed of at a waste disposal facility designated and authorised for that purpose, unless the Municipality has given written consent for the building waste to be used for the purposes of land reclamation or for recycling.
- (2) Any person who makes use of the services of another person to remove building waste must be satisfied that the building waste will be collected and disposed of in terms of these By-laws.
- (3) A consent referred to in subsection (1) may be given subject to conditions.

### *Part 4: Industrial waste*

## **30 Generation and storage of industrial waste**

The owner or occupier of land or premises on which industrial waste is generated, must ensure that until such time as that waste is collected -

- (a) the waste is stored in a bulk container or other approved container;
- (b) the container in which the waste is stored, is not kept or placed in a public place except when being collected; and
- (c) that no nuisance or health risk, including but not limited to dust, is caused by the waste in the course of generation, storage or collection.

## **31 Collection, treatment and disposal of industrial waste**

The owner or occupier of land or premises generating industrial waste must ensure that the waste is collected within a reasonable time after the generation thereof and before that waste causes a nuisance.

### *Part 5: Special industrial, hazardous or health care risk waste*

## **32 Generation of special industrial, hazardous or health care risk waste**

- (1) No person may carry on an activity that will result in the generation of special industrial, hazardous or health care risk waste, without notifying the Municipality in writing and prior to the generation of such waste, of –
  - (a) the composition of that waste;
  - (b) the estimated quantity of waste to be generated;
  - (c) the method and proposed duration of storage of the waste;
  - (d) the manner in which the waste will be collected and disposed of.
  - (e) The Municipality may require the notification referred to in subsection (1) to be substantiated by an analysis of the composition of the waste concerned which is certified by an appropriately qualified industrial chemist within a period indicated by the Municipality.

- (2) A person who has an obligation in terms of subsection (1) must notify the Municipality in writing of any change in respect of the generation, composition, quantity, manner of storage, method or location of disposal of the special industrial, hazardous, or health care risk waste.

### **33 Storage and collection of special industrial, hazardous or health care risk waste**

- (1) A person responsible for generating special industrial, hazardous or health care risk waste, must store the waste on the land or premises where it was generated until it is collected 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 legislation relating to buildings.
- (2) Any person generating special industrial, hazardous or health care risk waste is responsible for ensuring that the waste is treated or disposed of at a waste disposal facility designated by the Municipality or at a waste disposal facility that is authorised to receive such waste.

## **CHAPTER 7: COMPLIANCE AND ENFORCEMENT**

### *Part 1: General duty*

### **34 Duty of care**

- (1) Any person who generates waste has a duty to manage that waste in such a manner that the waste does not endanger health or cause pollution or degradation of the environment and must take all reasonable measures to –
  - (a) reduce the generation of waste;
  - (b) re-use and recycle waste;
  - (c) to ensure that, where waste must be disposed of, it is disposed of in an environmentally sound manner;
  - (d) manage the waste in such a manner that it does not cause a nuisance through noise, dust or odour; and
  - (e) prevent the waste from being used for a purpose or in a manner not permitted by law.
- (2) No person may generate, collect, store, transport, sort, recycle, re-use, recover, treat, dispose of or otherwise manage waste in a manner that results in, or creates a risk of, harm that is not insignificant to human health or the environment.
- (3) Every person who generates, collects, stores, transports, sorts, recycles, re-uses, recovers, treats or disposes of waste shall take all reasonable measures to prevent any other person from contravening subsection (2) in relation to that waste.
- (4) Where any waste management activity has been authorised by law, the person so authorised shall minimise and remedy any pollution or degradation to the environment.
- (5) Without limiting the generality of the duties imposed in this section, the persons on whom subsections (1), (2), (3) and (4) imposes a duty shall include an owner of land, premises or equipment, a person in control of land, premises or equipment, a person who has a right to use the land, premises or equipment or a person who owns or controls equipment or vehicles on which or in which –

- (a) any activity or process is or was performed or undertaken that results in the generation of waste;
  - (b) waste is transported, managed, treated or disposed of; or
  - (c) any other situation exists and which causes, or is likely to cause harm to human health or pollution or degradation to the environment.
- (6) The measures that are required in terms of this section may include –
  - (a) investigation, assessment and evaluation of the impact of the waste on the environment;
  - (b) informing and educating employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing pollution or degradation to the environment;
  - (c) ceasing, modifying or controlling any act or activity which causes pollution or degradation;
  - (d) containing or preventing the movement of pollutants or the causes of degradation or damage to the environment;
  - (e) eliminating any source of the pollution or degradation; and
  - (f) remediating the effects of the pollution or degradation.
- (7) Subsection (3) does not apply to the owner or occupier of land or premises on domestic waste is produced where such waste is collected by a Municipality or municipal service provider.
- (8) The Municipality may issue a Code of Practise to provide guidance on how duty imposed by this section must be discharged.
- (9) The Municipality may, after consultation with any other organ of state concerned and after having given adequate opportunity to affected persons to inform it of their relevant interests, direct any person who fails to take the measures required under subsection (1) to—
  - a) cease an activity;
  - b) investigate, evaluate and assess the impact of specific activities and report thereon;
  - c) commence taking specific reasonable measures before a given date;
  - d) diligently continue with those measures; and
  - e) complete them before a specified reasonable date:

Provided that if urgent action is necessary for the protection of the environment, the Municipality may issue such directive and give the person an opportunity to comment as soon thereafter as is reasonable.

- (10) Should a person fail to comply, or inadequately comply, with a directive under subsection (9), the Municipality may take reasonable measures to remedy the situation.
- (11) The Municipality recover all costs incurred as a result of it acting under subsection (10) from –

- (a) any person who is or was responsible for, or who directly or indirectly contributed to, the pollution or degradation or the potential pollution or degradation;
- (b) the owner of the land at the time when the pollution or degradation or the potential for pollution or degradation occurred, or that owner's successor in title;
- (c) the person in control of the land or any person who has or had a right to use the land at the time when—
  - (i) the activity or the process is or was performed or undertaken; or
  - (ii) the situation came about; or
- (d) any person who negligently failed to prevent—
  - (i) the activity or the process being performed or undertaken; or
  - (ii) the situation from coming about.

### *Part 2: Powers and representations*

#### **35. Designation of a Waste Management Inspector**

- (1) The council must, subject to the by laws governing the people service, designate an official within its administration to be styled as the Waste Management Inspector.
- (2) Subject to subsection 35(1), the Waste Management Inspector may also be designated as an environment management inspector, as contemplated in section 31(c) of the NEMA; as amended.
- (3) The Waste Management Inspector shall; under the directions of the council; exercise the duties and powers assigned to him under this by- law.

#### **36. Identification documents**

- (1) An official who is authorised to discharge a duty or function in terms of these By-laws must, on appointment, be issued with an identification document by the Municipality which contains the name, powers and function of that official and a photograph of the official.
- (2) Any official who exercises a power or performs a function or duty in terms of these By-laws must present the identification document issued in terms of subsection (1) on demand by a member of the local community.

#### **37. Powers of authorised officials**

- 1. In addition to the powers, functions and duties an authorised official has by virtue of his appointment, an authorised official may, with the consent of the owner or person in charge of a vehicle or other mode of conveyance, search that vehicle or other mode of conveyance.
- 2. If consent is not obtained in terms of subsection (1), a vehicle or other mode of conveyance may be searched. or stopped and searched.
- 3. If, in the opinion of an authorised official any search of a vehicle or other mode of conveyance, in terms of subsection (1) or (2), gives rise to the reasonable apprehension that the presence of waste in or on such vehicle or other mode of

conveyance is a serious and immediate danger to human health or to the environment, the authorised official or designated officer must instruct the owner or person in control of the vehicle concerned in writing to take the steps specified in that instruction which, in the opinion of such official, are necessary to mitigate harm to human health or damage to the environment.

### **38. Powers to question**

1. For the purposes of administering, implementing and enforcing the provisions of these By-laws, an authorised official or designated officer, may, require any person to disclose information, either orally or in writing, and either alone or in the presence of a witnesses, on any matter to which these By-laws relate and require that the disclosure be made on oath or affirmation.
2. An authorised official or designated officer may for the purposes of subsection (1) be accompanied by an interpreter and any other person reasonably required to assist that official or officer.

### **39. Compliance notices**

- (1) If, in the opinion of an authorised official, a person has contravened or is contravening any provision of these By-laws, that official may issue a written compliance notice and serve it on the person concerned.
- (2) A compliance notice must set out—
  - (a) details of the conduct constituting non-compliance;
  - (b) any steps the person must take and the period within which those steps must be taken;
  - (c) any thing which the person may not do, and the period during which the person may not do it; and
  - (d) the procedure to be followed in lodging an objection to the compliance notice with the Municipality.
- (3) An authorized official may, on good cause shown, vary a compliance notice and extend the period within which the person must comply with the notice.
- (4) A person who receives a compliance notice must comply with that notice within the time period stated in the notice unless the Municipality has agreed to suspend the operation of the compliance notice in terms of subsection (5).
- (5) A person who receives a compliance notice and who wishes to lodge an objection in terms of section 41(1) may make representations to the Municipal Manager, as the case may be, to suspend the operation of the compliance notice pending finalisation of the objection.

### **40. Environmental audits**

- (1) The Municipality may require any person to submit an environmental audit conducted by an independent person in a form indicated by the Municipality and to the satisfaction of the Municipality where the Municipality reasonably suspects that the person has on one or more occasions undertaken an activity, or permitted an activity to be undertaken, that has caused, or which is likely to cause harm to human health or damage to the environment.

(2) Any information in an audit report or other documentation supplied to the Municipality in connection with an audit may be taken into consideration by the Municipality and used for the purposes of these By-laws.

(3) Any person who fails to submit information or submits false or misleading information during the compilation of the audit shall be guilty of an offence.

#### **41. Objections**

1. Any person who receives compliance notice has been served may make an objection to the Municipality, by submitting a sworn statement or affirmation to the Municipality within 21 days of the service of the compliance notice.
2. An objection not lodged within 21 days must not be considered unless the person concerned has shown good cause and the Municipality condones the late lodging of the objection.
3. The Municipality must consider an objection and any response thereto by an authorised official or any other person, if any, and may conduct any further investigation to verify the relevant facts.
4. If the Municipality conducts a further investigation, the results of such investigation must be made available to the person who made the objection, who must be given an opportunity to respond thereto and the Municipality must consider such response.
5. A decision of the Municipality must be in writing and may -
  - (a) confirm, alter or set aside in whole or in part, the compliance notice concerned; and
  - (b) must, if relevant, specify the period within which the person concerned must comply with the order.
6. If a person makes an objection in terms of subsection (1), any requirement to comply with the compliance notice concerned, is not suspended pending the Municipality's consideration of the objection unless the Municipality indicates otherwise.
7. If person fails to comply with such an order in terms of subsection (5), the Municipality may itself take the steps required and covered any reasonable and necessary expenditure which it has incurred or may incur in taking those steps, from that person.

#### ***Part 3: Offences and penalties***

#### **42. Offences**

- (1) A person is guilty of an offence if that person –

- (a) provides incorrect or misleading information in any document submitted to the Municipality in terms of these By-laws;
  - (b) contravenes or fails to comply with a requirement of these By-laws;
  - (c) fails to comply with an instruction given in terms of these By-laws; or
  - (d) obstructs or hinders any authorised official of the Municipality in the execution of his or her duties under these By-laws.
- (2) A person who is guilty of an offence and is liable on conviction to a fine not exceeding R5000.00 as determined by a competent Court from time to time or in default of payment imprisonment not exceeding 6months or both.
- (3) A person who commits a continuing offence is liable on conviction to a further fine not exceeding R20.000.00 determined by a competent court from time to time or in default of payment imprisonment not exceeding 12months or both.
- (4) A fine contemplated in subsection (2) and (3) must be determined with due consideration of:
- (a) The severity of the offence in terms of the its impact, or potential impact on health , well-being, safety and the environment, and
  - (b) The monetary or other benefits which accrued to the convicted person through the commission of the offence.

## **CHAPTER 8: MISECLLANEOUS**

### **43. Ownership**

1. A person who generates waste is the owner of that waste until it is collected by the municipality.
2. The Municipality is the owner of any waste that is collected by the Municipality or any waste is disposed of at a waste disposal facility owned by the Municipality.
3. Any person who abandons any article, is liable for the damage which that article may cause as well as for the cost of removing that article, notwithstanding the fact that such person may no longer be the owner thereof.
4. Any person who transfers or disposes of waste contrary to the provisions of these By-laws remains liable for any loss, damage or harm that is caused by that waste notwithstanding the fact that such person may no longer be the owner thereof.

## **CHAPTER 9: GENERAL**

### **44. Repeal of By-laws**

Any other By- law adopted by the municipality relating to Waste Management are from the date of promulgation of this By-Law repealed to the extent set out in the third column.

**45. Transitional arrangements**

If any person has been generating special industrial, hazardous or healthcare risk waste as a result of activities which commenced prior to the commencement of these By-laws, the notice contemplated in section 32 must be furnished to the Municipality within 180 days of the commencement of these By-laws.

**46. Short title and commencement**

These By-laws take effect on the date of publication in the Gazette and may be cited as the Waste Management By-laws, 2012.

**SCHEDULE 1**

**Repeal of By-laws**

No and year of by-law	Title	Extent of repeal

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001.  
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