

# **BY-LAWS FOR THE MALUTI-A-PHOFUNG LOCAL MUNICIPALITY**

## **WASTE MANAGEMENT BY-LAWS**

### **SCHEDULE**

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### CHAPTER 1

### INTERPRETATION, PRINCIPLES AND OBJECTS

#### Definitions and interpretation

1. (1) In these By-laws, unless the context otherwise indicates-

**“approved”**, in relation to bins, bin liners, containers, receptacles and wrappers means approved by the Council for the collection and storage of waste;

**“authorised official”** means any official of the Council who has been authorised by the Council to administer, implement and enforce the provisions of these By-laws;

**“bin”** means an approved receptacle for the storage of less than 1,5 cubic metres of waste which may be supplied by the Council to premises in terms of these By-laws;

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

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

**“bulky waste”** means business waste or domestic waste which by virtue of its mass, shape, size or quantity is inconvenient to remove in the routine door-to-door municipal service provided by the Council;

**“business waste”** means waste, other than hazardous waste, healthcare risk waste, building waste, industrial waste, garden waste, bulky waste, recyclable waste and special industrial waste, generated on premises used for non-residential purposes;

**“commercial service”** means any service, excluding the municipal service, relating or connected with 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 with a capacity greater than 1,5 cubic metres for the temporary storage of waste in terms of these By-laws;

**“Council”** means -

a) the Local Municipality of **Maluti-a-Phofung** established in terms of the Local Government: Municipal Structures Act, 1998, (Act 117 of 1998) as amended, exercising its legislative and executive authority through its Municipal Council; or

b) its successor in title; or

c) 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 Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); or

d) except for the purposes of Chapters 6 and 8, 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; as the case may be;

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

**“dailies”** means putrescible waste generated by hotels, restaurants, food shops, hospitals, and canteens that must be collected on a daily basis, to prevent the waste from decomposing and presenting a nuisance or an environmental or health risk;

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

**“dump”** means placing waste anywhere other than an approved receptacle or a place designated as a waste handling facility or waste disposal facility by the Council;

**“environment”** means the surroundings within which humans exist made up of–

(a) the land, water and atmosphere of the earth,

(b) micro-organisms, plant and animal life,

(c) any part or combination of (a) and (b) and the interrelationships among and between them, and

(d) the physical, chemical aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

**“environmental emergency”** means any unexpected or sudden occurrence resulting from any act or omission relating to waste which may cause or has caused serious harm to human health or damage to the environment, regardless of whether the potential for harm or damage is immediate or delayed;

**“garden 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, in respect of any domestic, business, commercial or industrial premises;

**“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 include tree branches with a diameter thicker than 40 mm at any point of its length, bulky waste, building waste or any waste generated as a result of garden service activities;

**“garden waste handling facility”** means a waste handling facility in or on which garden waste or any other recyclable waste is received and temporarily stored ;

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

**“health care risk waste”** means all hazardous waste generated at any health care facility such as a hospital, clinic, laboratory, medical research institution, dental or medical practitioner or veterinarian;

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

**“land reclamation”** means the planned and engineered disposal of inert or other appropriate waste for the purpose of constructing any facility or changing the natural features of any piece of land;

**“level of service”** means the frequency of the municipal service and the type of service point;

**“licensee”** means any person who has obtained a licence in terms of Chapter 6;

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

**“local community”** in relation to the Council means that body of persons comprising–

(a) the residents in the municipal area,

- (b) the ratepayers of the Council,
- (c) any civic organisation and non-governmental, private sector or labour organisation or body which is involved in local affairs within the municipal area, and
- (d) 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 Council;

**“municipal manager”** means the municipal manager appointed in terms of section 82(1)(a) of the Structures Act;

**“municipal service”** means the municipal service relating to the collection of waste, including domestic waste, business waste and dailies, provided exclusively by the Council in accordance with Chapter 3 of these By-laws, and which in the case of business waste extends only to waste deposited in bin liners, bins and 240 litre wheeled bins;

**“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;

**“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 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;

**“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 own account or as an agent for any person entitled thereto or interested therein and in relation to 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;

**“pollution”** means any change in the environment caused by –

- (a) any substance; or
- (b) noise, odour, dust or heat, emitted from any activity, including the storage or treatment of any waste or substance, construction and the provision of any service, whether engaged in by any person or an organ of state;

if that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of a natural or managed ecosystem, or on material 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 utilised for business, industrial, agricultural or residential purposes;

**“prescribed fee”** means a fee determined by the Council by resolution in terms any applicable legislation;

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

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

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge 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;

**“recyclable waste”** means waste which has been separated from the waste stream, and set aside for purposes of recycling;

**“recycling”** means the use, re-use or reclamation of material so that it re-enters an industrial process rather than becoming waste;

**“resident”**, in relation to the municipal area, means a person who is ordinarily resident within that area;

**“SANS Codes”** means the South African National Standards Codes of Practice or the South African Bureau of Standards Codes of Practice as contemplated in Government Notice No.

1373 published in Government Gazette 24002, dated 8 November 2002 in terms of the Standards Act, 1993 (Act No. 29 of 1993);

**“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;

**“storage”** means the storage of waste for a period of less than 90 days;

**“Structures Act”** means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

**“sustainable development”** means the integration of social, economic and environmental factors into planning, implementation and decision-making so as to procure that development serves present and future generations;

**“Systems Act”** means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

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

**“verge”** means a verge as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996);

**“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 treatment, discarding or recycling and may be liquid or solid, may include products that contain a gaseous component and may originate from domestic, commercial, medical or industrial activities, but does not include any gas or gaseous product which may be regulated by national legislation;

**“waste disposal facility”** means any facility or site which receives waste for treatment or disposal thereof, and which is operated in terms of a permit obtained from the National Department of Water Affairs and Forestry or any other competent authority or if such a facility is an incinerator, subject to registration or such permission as is required by law, and includes a garden waste handling facility;

**“waste generator”** means any person who generates or produces waste;

**“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;

**“waste stream”** means a type of waste, including building waste; business waste; bulky waste; dailies; domestic waste; garden waste; hazardous waste; health care risk waste; industrial waste; recyclable waste and special industrial waste;

**“workplace”** means any place within the municipal area on or in which or in connection with which, a person undertakes the municipal service or a commercial service;

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

- (2) If any provision in these By-laws vests or imposes any power, function or duty of the Council in or on an employee of the Council and such power, function or duty has in terms of section 81(2) of the Systems Act, or any other law, been assigned to a service provider, the reference in such provision to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorised by it.

## Principles

2. (1) The Council has the responsibility to ensure that all waste generated within the municipal area is—
- collected, disposed of or recycled in accordance with these By-laws; and
  - that such collection, disposal or recycling takes account of the waste management hierarchy set out in subsection (2).
- (2) The underlying principle of these By-laws is to establish a waste management hierarchy in the following order of priority:
- Avoidance, waste minimisation and waste reduction;
  - re-use;
  - recycling, reprocessing and treatment; and
  - disposal.
- (3) Any authorised official must, as far as reasonably possible, take into account the hierarchy specified in subsection (2).

**Main objects**

3. (1) The main objects of these By-laws are—
- (a) the regulation of the collection, disposal, treatment and recycling of waste;
  - (b) the regulation of the provision of the municipal service by a service provider 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)(c), the Council must—
- (a) endeavour to minimise the consumption of natural resources;
  - (b) promote the re-use and recycling of waste;
  - (c) encourage waste separation to facilitate re-use and recycling;
  - (d) promote the effective resourcing, planning and delivery of the municipal service and commercial services;
  - (e) endeavour to achieve integrated waste planning and services on a local basis;
  - (f) promote and ensure an environmentally responsible municipal service and commercial service; and
  - (g) endeavour to ensure compliance with the provisions of these By-laws.

**CHAPTER 2**  
**WASTE MANAGEMENT INFORMATION SYSTEM**

**Establishment of an information system**

4. (1) The Council must establish and maintain a waste management information system which records how waste is managed within the municipal area.
- (2) The information system may include any information relating to or connected with the management of waste within the municipal area.

**Purpose of the information system**

5. (1) The purpose of the information system referred to in section 4, is for the Council to—
- (a) record data relating to the implementation of the local waste plan and the management of waste in the municipal area;
  - (b) record information held by the Council in relation to any of the matters referred to in section 6(1);
  - (c) furnish information upon request or as required by law to the national government;
  - (d) gather information and undertake strategic planning regarding potential and actual waste generators, service providers and licensees; and
  - (e) provide information to waste generators, service providers, licensees and the local community in order to –
    - (i) facilitate monitoring of the performance of the Council, service providers and licensees, and, where applicable, waste generators;
    - (ii) stimulate research; and
    - (iii) assist the Council to achieve the main objects of these By-laws specified in section 3.

**Provision of information**

6. (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 the municipal service or any commercial service within the municipal area to furnish information to the Council which may reasonably be required for the information system, and which may concern—
- (a) significant sources of waste generation and the identification of the generators of waste;
  - (b) quantities and classes of waste generated;
  - (c) management of waste by waste generators;
  - (d) waste handling, waste treatment and waste disposal facilities;
  - (e) population and development profiles;
  - (f) reports on progress in achieving waste management targets;
  - (g) the management of radioactive waste;

- (h) any information which has been compiled in accordance with section 27(2)(d);
  - (i) markets for waste by class of waste or category; and
  - (j) any other information required by legislation, regulations or guidelines.
- (2) The Council may determine when and how often information must be furnished.

### **CHAPTER 3**

### **MUNICIPAL SERVICE**

#### **Part 1: Providing access to municipal services**

##### **Duty to provide access to municipal service**

7. (1) The Council has a duty to the local community progressively to ensure efficient, affordable, economical and sustainable access to the municipal service.
- (2) The duty referred to in subsection (1) is subject to –
- (a) the obligation of the members of the local community to pay the prescribed fee, for the provision of the municipal service, which must be in accordance with any nationally prescribed norms and standards for rates and tariffs; and
  - (b) the right of the Council to differentiate between categories of users and geographical areas when setting service standards and levels of service for the provision of the municipal service.
- (3) The Council must take the following factors into account in ensuring access to the municipal service:
- (a) The waste management hierarchy set out in section 2(2);
  - (b) the need to use resources efficiently;
  - (c) the need for affordability;
  - (d) the requirements of operational efficiency;
  - (e) the requirements of equity; and
  - (f) the need to protect human health and the environment.

##### **The provision of the municipal service**

8. (1) The Council must as far as reasonably possible and subject to the provisions of these By-laws, provide for the collection of domestic waste, business waste and dailies on a regular basis and at a cost to end users determined in accordance with the prescribed fee.
- (2) In relation to the municipal service, the Council may determine-
- (a) the quantities of waste that will be collected;
  - (b) which residential or commercial premises require an increased frequency of the municipal service for reasons of health, safety or environmental protection;
  - (c) the maximum amount of waste that may be placed for collection without the provision of an additional service or payment of an additional prescribed fee; and
  - (d) requirements for the provision of waste storage areas and access to such areas in respect of premises which are constructed or reconstructed after the commencement of these By-laws.
- (3) The Council may provide, or instruct a generator of waste to provide, an approved receptacle for the storage of domestic waste, business waste and dailies pending collection or the Council may provide such receptacle which remains the property of the Council.
- (4) In providing the municipal service, the Council 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 separable for the purposes of recycling and the conditions for their separation, storage or collection; and
  - (d) which waste items are unsuitable for collection because they do not constitute domestic waste, and if waste is determined to be unsuitable for collection, a process for collection of such waste should be recommended to the owner of the waste.

- (5) The Council may require a generator of dailies or business waste to compact that portion of the waste that is compactable, if the quantity of dailies or business waste generated on premises requires daily removal of more than the equivalent of eight 240-litre bins and if, in the opinion of the Council, the major portion of such waste is compactable.
- (6) An occupier of premises may elect to compact any volume of waste referred to in subsection (5), and place it into an approved receptacle or wrapper, provided-
  - (a) the capacity of the wrapper does not exceed 85 litres and the mass of the wrapper and contents does not exceed 35 kilograms; and
  - (b) after the waste has been compacted and put into the wrapper, it is placed in an approved receptacle and stored so as to prevent damage to the wrapper or any nuisance arising until it is collected.
- (7) Any approved receptacle used in terms of subsection (6) may be collected, emptied and returned to the premises by the Council at such intervals as it may consider necessary.
- (8) The Council may at any time review any decision taken by it in terms of subsection (4).
- (9) The Council must in writing notify every generator of domestic waste, business waste and dailies of any decision taken in terms of subsection (2) or (3) relating to his or her premises.
- (10) Non-receipt of a notice contemplated in subsection (9), does not affect the application of any provision of these By-laws nor the liability to pay any prescribed fee provided for in these By-laws.

## **Part 2: Using municipal service**

### **Obligations of generators of domestic waste, business waste and dailies**

- 9. (1) Any person generating domestic waste, business waste and dailies, other than waste which has been designated by the Council as recyclable as contemplated in section 8(4)(c), must place such waste, in an approved receptacle.
- (2) No person may allow an animal in his or her control to interfere with, overturn or damage a receptacle, which has been placed for collection.
- (3) The occupier of premises must ensure that -
  - (a) no hot ash, unwrapped glass or other domestic waste, business waste or dailies which may cause damage to approved receptacles or which may cause injury to the Council's employees while carrying out their duties in terms of these By-laws, is placed in an approved receptacle before suitable steps have been taken to avoid such damage or injury;
  - (b) no material, including any liquid, which by reason of its mass or other characteristics is likely to render an approved receptacle unreasonably difficult for employees of the Council to handle or carry, is placed in an approved receptacle;
  - (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) no approved receptacle delivered by the Council is used for any purpose other than the storage of domestic waste, business waste and dailies and, in particular, that no fire is lit in such receptacle;
  - (e) an approved receptacle is placed outside the entrance to the premises before a time and on a day of the week specified by the Council by written 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;
  - (f) an approved receptacle, placed in accordance with paragraph (e) is not damaged and properly closed so as to prevent the dispersal of its contents; and
  - (g) dailies are not placed in a receptacle or compactor where they are able to contaminate another waste stream.



- (4) The owner or occupier of premises must provide space and any other facility considered necessary by the Council on the premises for the storage of approved receptacles.
- (5) The space provided in terms of subsection (4), must -
  - (a) be in a position on the premises which will allow the storage of any approved receptacle without it being visible from a public road or public place;
  - (b) if dailies are generated on premises -
    - (i) be in a position which will allow the collection and removal of that waste by the Council's employees without hindrance; and
    - (ii) not be more than 20 metres from the entrance to the premises used for the collection of waste by the Council;
  - (c) be so located as to permit convenient access to and egress from such space for the Council's waste collection vehicles;
  - (d) comply with any further requirements imposed by the Council by written notice to the owner or occupier of the premises; and
  - (e) be constructed in accordance with the requirements of any applicable legislation relating to buildings.
- (6) The occupier of premises must place or cause the approved receptacles to be placed in the space provided in terms of subsection (4) and must at all times keep them there.
- (7) Notwithstanding the provisions of subsection (6)-
  - (a) in the case of a building erected, or a building, the building plans of which have been approved, prior to the commencement of these By-laws; or
  - (b) in the event of the Council being unable to collect and remove waste from the space provided in terms of subsection (4),
 the Council may, having regard to the avoidance of a nuisance and the convenience of collection of waste, indicate a position within or outside the premises concerned where approved receptacles must be placed for the collection and removal of waste and such receptacles must then be placed in that position at such times and for such period as the Council may require.

#### **Liability to pay for municipal service**

- 10. (1) The owner of premises is liable to pay to the Council the prescribed fee for the provision of the municipal service, and is not entitled to exemption from, or reduction of the amount of such fee by reason of not making use, or of making a partial or limited use, of the municipal service.
- (2) (a) A prescribed fee becomes due and payable on the due date for payment stipulated in the account.
- (b) Non-receipt of an account does not relieve the person concerned of the liability to pay a prescribed fee before or on the due date.

### **CHAPTER 4 COMMERCIAL SERVICES**

#### **Part 1: Provision of commercial services by licensees and flow control**

##### **Provision of commercial services by licensees**

- 11. (1) Except in the case of garden waste, only a licensee may provide a commercial service.
- (2) Any person requiring a commercial service must satisfy himself that the contractor is licensed to collect and dispose of the category of waste that has been generated.

##### **Provision for Council co-ordination of waste disposal**

- 12. (1) The Council may by a notice published in the Free State Provincial Gazette, direct that a category of waste be disposed of at a particular waste disposal facility or waste handling facility.
- (2) No person may dispose of a category of waste at a waste disposal facility or waste handling facility which is not designated for receipt of that category of waste in a

notice in terms of subsection (1) or designated by the Council under other empowering legislation prior to the commencement of these By-laws.

## **Part 2: Business, industrial and recyclable waste**

### **Storage of business, industrial and recyclable waste**

13. (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 in a bulk container or other approved receptacle; and
  - (b) no nuisance or health risk, including but not limited to dust, is caused by the waste in the course of generation, storage or collection.

### **Collection and disposal of industrial, business and recyclable waste**

14. (1) The owner or occupier of premises generating business, industrial or recyclable waste must ensure that-
- (a) the container in which the waste is stored, is not kept in a public place except when so 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 is only in respect of that portion of the business, industrial or recyclable waste authorised in the licence concerned.
- (2) A licensee must dispose of business, industrial and recyclable waste at an appropriately permitted waste handling facility or waste disposal facility in compliance with the provisions of section 12(2) and 23.

## **Part 3: Garden waste and bulky waste**

### **Storage, collection and disposal of garden waste and bulky waste**

15. (1) The owner or occupier of premises on which garden waste is generated may compost garden waste on the property, provided such composting does not cause a nuisance or health risk.
- (2) The occupier of the premises on which garden waste is generated and not composted or on which bulky waste is generated must ensure that such waste is collected and disposed within a reasonable time after the generation thereof.
- (3) Any person or licensee may remove garden waste and bulky waste, provided once such waste has been collected from the premises on which it was generated, it is deposited at a garden waste handling facility in accordance with the provisions of section 23.
- (4) (a) At the written request of the occupier of premises, the Council may deliver an approved receptacle to the premises for the purpose of storing garden waste in addition to any approved receptacle delivered to the premises for the storage of domestic waste.
- (b) The provisions of section 9, read with the necessary changes, apply to an approved receptacle delivered in terms of paragraph (a).
- (5) If, in the course of providing the municipal service, the Council is of the opinion that it would cause inconvenience to members of the public not, at the same time, to remove garden and bulky waste, the Council may remove such waste if such waste has been placed in an approved receptacle in the space designated for domestic waste, in which event the prescribed fee for domestic waste, read with the necessary changes, applies.

## **Part 4: Building waste**

### **Generation of building waste**

16. (1) The owner or occupier of premises on which building waste is generated, 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 instruction from the Council, any structure necessary to contain the building waste is constructed.

**Storage of building waste**

17. (1) The Council may, subject to the provisions of subsection (2), determine conditions to place a receptacle for the storage and removal of building waste on a verge.
- (2) Every receptacle used for the storage and removal of building waste must -
- (a) have clearly marked on it the name, address and telephone number of the person in control of that 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, waste so that no displacement of its contents can occur.

**Collection and disposal of building waste**

18. (1) The owner or occupier of premises on which building waste is generated, must ensure that the waste is disposed of by a licensee.
- (2) All building waste must be disposed at a waste disposal facility designated for that purpose by the Council in terms of section 12, unless the Council has given written consent for the building waste to be used for the purpose of land reclamation or for recycling.

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

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

19. (1) No person may carry on an activity which will generate special industrial, hazardous or health care risk waste, without notifying the Council in writing, prior to the generation of such waste, of the composition of such waste, the estimated quantity to be generated, the method of storage, the proposed duration of storage, the manner in which it will be collected and disposed of, and the identity of the licensee who will remove such waste: Provided that if such waste is being generated as a result of activities which commenced prior to the commencement of these By-laws, the generator must notify the Council as contemplated in this subsection within 180 days of the commencement of these By-laws.
- (2) If so required by the Council, the notification referred to in subsection (1) must be substantiated by an analysis of the composition of the waste concerned, certified by an appropriately qualified industrial chemist.
- (3) The person referred to in subsection (1), must notify the Council in writing of any change occurring with respect to the generation, composition, quantity, method or location of disposal of the special industrial, hazardous, or health care risk waste.

**Storage of special industrial, hazardous or health care risk waste**

20. (1) Any person carrying on an activity which generates special industrial, hazardous or health care risk waste, must ensure that such waste generated on the premises is kept and stored thereon until it is collected from the premises.
- (2) Special industrial, hazardous or health care risk waste stored on premises, must be stored in such a manner that it does not become a nuisance or causes harm to human health or damage to the environment, and in accordance with the requirements of any applicable legislation relating to buildings.
- (3) Special industrial, hazardous or health care risk waste must be stored in an approved receptacle and for a period not exceeding 90 days or any other maximum period stipulated by the Department of Water and Environmental Affairs, Free State provincial government or Council, before collection.

### **Collection and disposal of special industrial, hazardous or health care risk waste**

21. (1) Only a licensee may transport special industrial, hazardous and health care risk waste and must do so in accordance with the requirements of the conditions of the licence issued to him or her under Chapter 6 as well as in the relevant SANS codes, 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 subject to the requirements of any other legislation.
- (2) A licensee licensed to collect and dispose of special industrial, hazardous or health care risk waste, must inform the Council at intervals stipulated in the licence issued under Chapter 6, of each 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 waste disposal facility at which the waste has been disposed of.
- (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 and in accordance with the provisions of section 23.

## **CHAPTER 5 TRANSPORTATION AND DISPOSAL OF WASTE**

### **Transportation of waste**

22. (1) No person may-
- (a) operate a vehicle for the conveyance of waste upon a public road unless the vehicle has a body of adequate size and construction for the type of waste being transported;
  - (b) fail to maintain a vehicle used for the conveyance of waste in a clean, sanitary and roadworthy condition at all times;
  - (c) fail to cover loose waste on an open vehicle with a tarpaulin or suitable net; and
  - (d) cause or permit any waste being transported in or through the municipal area to become detached, leak or fall from a vehicle transporting it, except at a waste disposal facility.
- (2) Subject to the provisions of subsection (1), all transportation of waste must comply with the National Road Traffic Act, 1996 (Act No. 93 of 1996).

### **Disposal of waste**

23. (1) (a) Waste generated in the municipal area must be disposed of at a waste disposal facility where such disposal is permitted by the Council.
- (b) In disposing of waste, a licensee must comply with the provisions of section 12(2) and 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, for the purpose of disposing of that waste.
- (3) No person may incinerate waste either in a public or private place, except in an incinerator at a place where the relevant national or Free State provincial authorities permit such incineration, or at a place designated by the Council for that purpose.
- (4) Notwithstanding the provisions of subsection (1), a person may dispose of those forms of recyclable waste specified by the Council in a notice in terms of section 12 at a designated garden waste handling facility, but may do so only if all such waste is brought to the facility in a vehicle able to carry a maximum load of one tonne or less.
- (5) The disposal of waste at any waste disposal facility is, in addition to any condition imposed by the National Department of Water Affairs and Forestry, subject to such conditions as the Council may impose, 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 matter which the Council considers necessary to ensure the environmentally sound management of waste.
- (6) Every person who enters a waste disposal facility must -

- (a) enter a waste disposal facility at an access point determined by the person in charge of the waste disposal facility;
  - (b) at the request of the person in charge of a waste disposal facility, provide the Council or that person with any information regarding the composition of the waste disposed of or to be disposed of; and
  - (c) comply with any instruction by the person in charge of a waste disposal facility in regard to access to, the actual place where, and the manner in which, waste must be deposited.
- (7) No person may-
- (a) bring any liquor or intoxicating or narcotic substance onto a waste disposal facility or enter such facility under the influence of liquor or such substance;
  - (b) enter a waste disposal facility for any purpose other than the disposal of waste in terms of these By-laws, unless authorised to do so by the person in charge of the waste disposal facility or the Council and then only at such times and subject to such conditions as the Council or such person may impose;
  - (c) dispose of waste at a waste disposal facility where the disposal of the waste concerned is not permitted; or
  - (d) light a fire on a waste disposal facility without the prior written consent of the person in charge of that facility.
- (8) Any person who contravenes subsection (7)(c) is liable for all costs reasonably incurred by the Council in removing or otherwise dealing with the waste concerned.
- (9) The person in charge of a waste disposal facility may at any time require a vehicle or a container on a vehicle brought into the waste disposal facility for the purposes of disposing of waste, to be weighed at a weighbridge.
- (10) The person in charge of a waste disposal facility or an authorised official 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.
- (11) Any person contravening any preceding provision of this section, may be refused entry or instructed by the person in charge to leave a waste disposal facility and if such person fails or refuses to comply with such instruction, he or she may be removed from such facility by a member of the Municipality.
- (12) No person may store waste for more than 90 consecutive days, unless the person has a permit in respect of the premises concerned for a waste disposal facility from the Department of Water and Environmental Affairs in terms of section 20(1) of the Environment Conservation Act, 1989 (Act No. 73 of 1989).

## **CHAPTER 6 LICENSEES**

### **Licence requirements**

24. (1) Subject to the provisions of section 32, no person may collect or transport any of the following waste streams listed in subsection (2) without having obtained from the Council, and being in possession of a licence authorising such collection and transportation:
- (a) business (bulk containerised) waste;
  - (b) industrial waste;
  - (c) special industrial waste;
  - (d) hazardous waste;
  - (e) recyclable waste
  - (f) health care risk waste; and
  - (g) building waste.
- (2) A licence issued under this Chapter -
- (a) is incapable of cession or assignment without the prior written consent of the Council;
  - (b) is valid only for the category of waste specified therein; and
  - (c) expires one year after the date of issue subject to the provisions of sections 28(4) and 32(2).

### **Licence applications**

25. (1) An application for a licence to provide a commercial service must be
- (a) made in writing on a form prescribed by the Council and accompanied by the documentation specified in that form; and
  - (b) accompanied by the prescribed fee.
- (2) The Council must consider each application, having regard to the following:
- (a) The applicant's compliance, where relevant, with the National Road Traffic Act, 1996, and with these By-laws;
  - (b) the environmental, health and safety record of the applicant; and
  - (c) the nature of the commercial service to be provided.
- (3) Before considering an application made in terms of subsection (1), the Council may require the applicant to furnish such information as it may require.
- (4) After considering the application in terms of subsection (2), the Council must either—
- (a) approve the application by issuing a licence subject to any condition it may impose; or
  - (b) reject the application.
- (5) If the Council fails to consider and grant or reject a licence application within 60 days of its receipt of the application, it must inform the applicant in writing that the period for consideration is extended and must inform the applicant of the date by which a decision will be made.

### **Suspension and revocation of licences**

26. (1) A licence issued under this Chapter may be suspended or revoked by the Council on the grounds that the licence holder—
- (a) has failed to comply with any provision of these By-laws;
  - (b) has failed to comply with any provision of any national or Free State provincial legislation which regulates the collection, transportation or disposal of waste;
  - (c) has failed to comply with any licence condition contemplated in section 25(4)(a); or
  - (d) on any other ground which the Council considers relevant, which is fair and reasonable in the circumstances.
- (2) A licence may only be suspended or revoked after -
- (a) the licence holder has been given written notice that the Council is considering the suspension or revocation of the licence; and
  - (b) after the licence holder has been given a period of 30 days after service of the notice to make representations to the Council as to why the licence should not be suspended or revoked.
- (3) The Council must –
- (a) make a decision within 14 days of receipt of the representations contemplated in subsection (2)(b), if any, or within 14 days after the licence holder informed the Council that he or she does not wish to make representations, or if no representations are received, within 14 days of the expiry of the period referred to in subsection (2)(b); and
  - (b) inform the licence holder of its decision in writing within seven days of making it.
- (4) Subject to the provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), the Council may not disclose any confidential commercial information submitted as part of a licence application procedure to any person other than a Council official requiring such information to perform his functions for the purposes of these By-laws.

### **Licence terms and conditions**

- 27 (1) When issuing a licence under this Chapter, the Council may, subject to the provisions of subsection (2), impose any reasonably necessary condition in furthering national, Free State provincial or Council, waste management policy.
- (2) Any licence issued under this Chapter must—
- (a) specify the licence period contemplated in section 24(2)(c) and the procedure for renewal of the licence;

- (b) specify every category of waste which the licence holder may collect and transport;
- (c) contain a requirement that the licence holder must comply with, and ensure compliance by his or her employees, agents and sub-contractors, with these By-laws and applicable national and Free State provincial legislation; and
- (d) require the licence holder to keep monthly written records on a form prescribed by the Council of the quantities of each category of waste collected and transported during the licence period.

#### **Renewal of licences**

28. (1) A licence holder who wishes to renew his or her licence must apply to renew the licence concerned at least 90 days prior to the expiry of the existing licence.
- (2) The Council must consider and grant or reject a licence renewal application within 60 days of the receipt of the application subject to the provisions of section 25(3) and in accordance with section 25(4).
- (3) If the Council fails to consider and grant or reject a licence renewal application within 60 days, it must inform the applicant in writing that the period for consideration is extended and must inform the applicant of the date by which a decision will be made.
- (4) A licence in respect of which application for renewal has been made in terms of subsection(1), remains valid until a final decision has been made in respect of that application.

#### **Display of licences**

29. (1) Upon issuing a licence under this Chapter, the Council must issue to the licence holder a numbered sticker for each vehicle to be used for the purpose concerned confirming that the licence holder is authorised to collect and transport the category of waste specified on the sticker.
- (2) The stickers must vary in colour for each category of waste.
- (3) The licence holder must affix such sticker to each vehicle to be utilised to provide the service and display the sticker at all times.
- (4) Waste for processing or disposal at a waste disposal facility will be only be received at such facility from a contractor who is licensed and on whose vehicle a sticker required in terms of subsection (3), is displayed.

#### **Prohibited conduct**

30. No licence holder may -
- (a) intentionally or negligently operate in contravention of any condition of the licence concerned;
  - (b) intentionally or negligently fail or refuse to give information, when required to do so in terms of these By-laws, or give false or misleading information;
  - (c) intentionally or negligently fail to take all reasonable steps to prevent a contravention of these By-laws, by any act or an omission of his or her employee acting in the course and scope of his or her duties, or
  - (d) collect or transport any waste except in a properly constructed, watertight vehicle or in a suitable container that prevents spillage of waste, the suitability of the vehicle to be dependant on the waste stream contemplated in section 24(1), to be collected or transported, as specified in the National Road Traffic Act, 1996.

#### **Exemptions**

31. The Council may, having regard to the main objects of these By-laws contemplated in section 3(1), and its local waste plan, by notice in the Free State Provincial Gazette, exempt any type of commercial service from any provision of this Chapter to the extent and subject to the terms specified in such notice.

#### **Transitional provisions**

32. (1) Any person who is at the commencement of these By-laws lawfully providing a commercial service for which a licence is required under this Chapter, must within 90 days of such commencement, make application for a licence in terms of section 25, failing which such person's right to provide such service lapses.

- (2) If an application is submitted in terms of subsection (1), the applicant may continue to provide the commercial service in respect of which the application has been made until a final decision has been taken in respect of that application.

## **CHAPTER 7**

### **ACCUMULATING WASTE, LITTERING, DUMPING AND ABANDONED ARTICLES**

#### **Accumulating waste**

33. Every owner and occupier of premises must keep those premises clean and free from any waste which is likely to cause a nuisance, harm to human health or damage to the environment.

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

34. (1) The Council, or owner in the case of privately owned land, must take reasonable steps to ensure that a sufficient number of approved receptacles are provided for the discarding of litter by the public, on any premises to which the public has access.
- (2) The Council, or owner of privately owned land, must ensure that every receptacle provided in terms of subsection (1), is –
- (a) maintained in good condition;
  - (b) suitably weighted or 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 a suitable size so that the receptacles on the premises are capable of containing all litter likely to be generated on the premises;
  - (e) placed in a location convenient for the use by users and occupants of the premises to discourage littering or the accumulation of waste; and
  - (f) emptied and cleansed periodically to ensure that no receptacle or its contents become a nuisance.

#### **Prohibition of littering**

35. (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 any of the contents of the receptacle to spill from it; or
  - (d) allow any person under his or her control to do any of the acts referred to in paragraph (a), (b) or (c).
- (2) Notwithstanding the provisions of subsection (1), the Council, or the 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 from the premises concerned to prevent the litter from becoming a nuisance.

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

36. (1) No person may deposit or permit the depositing of any waste, whether for gain or otherwise, upon any land or in any building of which he is the owner or occupier except if such deposit is made in accordance with the provisions of these By-laws.
- (2) Subject to any provision to the contrary contained in these By-laws, no person may leave any article or allow any article under his or her control to be left at a place with the intention of abandoning it.
- (3) No person may dump waste.
- (4) Any article, other than a motor vehicle deemed to have been abandoned as contemplated in regulation 320 of the National Road Traffic Regulations, 2000, made under the National Road Traffic Act, 1996, which, in the light of such factors as the place where it is found, the period it has been at such place and the nature and condition of such article, is reasonably considered by the Council as having been abandoned, may be removed and, subject to the provisions subsection (6), disposed of by the Council as it deems fit.



- (5) The Council may remove and, subject to the provisions of subsection (6), dispose of any article which is chained or fastened to any pole, parking meter or any other property of the Council as it deems fit.
- (6) If an article contemplated in subsection (4) or (5), is, in the opinion of the Council, of significant financial value, the Council may not dispose of it unless it has published a notice in a newspaper circulated in the area where the article was found, describing the article, stating the Council's intention to dispose of it and inviting the owner, or person legally entitled thereto, to claim the article within 30 days of the date of publication of the notice and such article may only be disposed of if no valid claim is made during such period.

## **CHAPTER 8 AUTHORISED OFFICIALS**

### **Identification documents**

- 37. (1) An authorised official must, upon appointment, be issued with an identification document by the Council which must state the name and powers and function of that official, and include a photograph of the official.
- (2) An authorised official, exercising his powers or performing his functions and duties for the purposes of these By-laws, must present an identification document issued in terms of subsection (1) on demand by a member of the local community.

### **Powers of authorised officials**

- 38. (1) In addition to the powers, functions and duties an authorised official or designated officer has by virtue of his appointment as such, 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 found in any place other than on premises not belonging to the Council.
- (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, only pursuant to a warrant issued by a justice of the peace as contemplated in sections 3 and 4 of the Justices of the Peace and Commissioners of Oaths Act, 1963 (Act No. 16 of 1963).
- (3) (a) 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 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 or officer, are necessary to mitigate harm to human health or damage to the environment.
- (b) In the event of a refusal or failure to comply with an instruction given in terms of paragraph (a), the authorised official concerned may report the matter to the Municipality with a view to seizure of the vehicle concerned in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

### **Powers to question**

- 39. (1) For the purposes of administering, implementing and enforcing the provisions of these By-laws, an authorised official may require a licensee or any other 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 may for the purposes of subsection (1) be accompanied by an interpreter and any other person reasonably required to assist that official or officer.

## **CHAPTER 9 MISCELLANEOUS**

### **Ownership**

- 44. (1) The person holding a permit to operate a waste disposal facility becomes the owner of all waste upon disposal thereof at that facility.

- (2) A person who generates domestic waste is the owner thereof until it is collected by the Council which then becomes the owner thereof.
- (3) A person who abandons any article, is liable for any 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.

#### **Serving of documents**

45. A notice, instruction, order or other document which has to be served for the purposes of these By-laws, is regarded to have been properly served or delivered if -
- (a) it has been served on or delivered to the person concerned personally;
  - (b) it has been sent by registered post or speed post to the person concerned at his or her last known address;
  - (c) it has been served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address.

#### **Offences and penalties**

46. Any person, who –
- (a) contravenes or fails to comply with any provisions of these By-laws;
  - (b) fails to comply with any notice or order issued or condition imposed in terms of or for the purposes of these By-laws; or
  - (c) fails to comply with any lawful instruction given in terms of or for the purposes of these By-laws, or
  - (d) who obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties under these By-laws,
- is guilty of an offence and liable on conviction to a fine of R1000.00 or in default of payment to imprisonment for a period not exceeding 6 months and in the case of a continuing offence, to a further fine not exceeding R1500.00 or in default of payment, to imprisonment not exceeding one day for every day during the continuance of such offence after a written notice has been issued by the Council and served on the person concerned requiring the discontinuance of such offence.

#### **Repeal of by-laws**

47. Any by-laws relating to waste management adopted by the Council or any municipality now comprising an administrative unit of the Council is repealed from the date of promulgation of these by-laws.

#### **Short title**

48. These By-laws are called the Waste Management By-laws, 2011.