



# **CITY OF EKURHULENI METROPOLITAN MUNICIPALITY**

## **INTEGRATED WASTE MANAGEMENT BY-LAWS**

[COUNCIL RESOLUTION: (01-2021) EWM: dated 25 March 2021]  
[Date of Commencement:09 June 2021]

## **BY-LAW**

To provide for integrated waste management and matters incidental thereto; to give effect to the environmental right in section 24 of the Constitution, by regulating the collection, storage, disposal, and other waste management activities within the jurisdictional area of City of Ekurhuleni; to provide, in conjunction with any other applicable law, an effective legal and administrative framework, within which the Municipality can manage and regulate waste management activities; to ensure that waste is avoided, or otherwise minimised, reused, recycled, and recovered, and that the remainder thereof is treated and disposed of in an environmental sound manner; to promote and ensure an effective delivery of waste service; and to ensure universal access to the municipal waste services.

### **PREAMBLE**

**WHEREAS** the City of Ekurhuleni (“Municipality”) has the constitutional obligation to provide services within its area of jurisdiction, including refuse collection, removal, and disposal;

**AND WHEREAS** the National Environmental Management Act 107 of 1998 (“NEMA”) gives effect to the constitutional right aimed at protecting the environment by stipulating environmental management principles that apply throughout the Republic to the actions of all organs of state that could significantly affect the environment;

**AND WHEREAS** the National Environmental Management: National Environmental Management Waste Act 59 of 2008 acknowledges that waste management practices in many areas of the Republic are not conducive to a healthy environment and that sustainable development requires that the generation of waste is avoided, or otherwise reduced, re-used, recycled or recovered, and only as a last resort, treated and safely disposed of, to ensure that the environment is protected from the negative impacts of poor waste management practices;

**AND WHEREAS** poor waste management practices can have adverse impacts on the environment within and beyond the Municipality’s boundaries;

**AND WHEREAS** the Municipality is committed to ensuring that all residents, organisations, institutions, businesses, visitors or tourist and public bodies can access services from a legitimate waste service provider;

**AND WHEREAS** the Municipality resolves to regulate waste collection, separation, storage, processing, treatment, recycling, reuse, and disposal, and to regulate littering and illegal dumping facilities used for the management of waste, with the aim of avoiding or minimising the generation and impact of waste;

**AND WHEREAS** the Municipality promotes the waste hierarchy approach as prescribed in the National Waste Management Strategy,

BE IT THEREFORE ENACTED by the Council of the Municipality, as follows:

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**CHAPTER 1**  
**INTRODUCTORY PROVISIONS**

**1. Interpretation**

- (1) If there is a conflict in the interpretation of any of the translated versions of this By-Law, the English version of this By-Law shall prevail.
- (2) The provisions of this By-Law are subject to the applicable provisions of the Act and any applicable provincial legislation.
- (3) In the event of a conflict between a section of this By-Law and –
  - (a) an Act of Parliament or regulation made in terms of that Act, the Act of Parliament prevails; and
  - (b) provincial legislation, the provincial legislation prevails.

**2. Definitions**

In this By-Law, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Act has the same meaning –

“accreditation”	means registering with the Municipality in terms of Chapter 11 of this By-Law;
“accredited service provider”	means any person registered with the Municipality in terms of Chapter 11 of this By-Law;
“Act”	means the
“approved waste receptacle”	means a disposable or re-usable receptacle provided by the Municipality or approved by it in which waste is placed for the purposes of storing, accumulating, handling, transporting, or disposing of that waste;
“Authorised official”	means any official of the Municipality who has been authorised or designated or appointed by the Municipality to administer, implement and enforce the provisions of these By-laws.
“building and demolition waste”	means waste, excluding hazardous 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;
“commercial service”	means the collection and transportation of waste excluding domestic waste, business waste and dailies, and including: <ol style="list-style-type: none"><li>(a) bulky waste;</li></ol>

- (b) building waste;
- (c) garden refuse;
- (d) hazardous waste;
- (e) industrial waste;
- (f) healthcare-risk waste;
- (g) recyclable waste;
- (h) special industrial waste;
- (i) and event waste

“Constitution”	means the Constitution of South Africa 1996;
“dailies”	means putrescible waste generated from processing, handling, and production of food and food products by non-residential premises, which include hotels, restaurants, food shops, hospitals, and canteens, that must be collected daily to prevent the waste from decomposing and constituting a nuisance, or becoming an environmental or health risk;
“damage to the environment”	means any pollution, degradation or harm to the environment, whether visible or not;
“developer”	means an agent or any other person acting on behalf of a person who owns land, building or any undivided share in such land or building situated within the Municipality’s jurisdiction;
“disposal”	means the burial, deposit, discharge, abandoning, dumping, placing or release of any waste into or onto any land;
“domestic waste”	means waste, excluding hazardous waste, generated on premises used mainly for residential, educational, health-care, sport, and recreation purposes;
“dump”	when used as a verb, means to dispose of waste in any manner other than one permitted by law, and includes, without derogating from the generality of the a foregoing, to deposit, discharge, spill or release waste, whether or not the waste is in a container in or at any place whatsoever, whether publicly or privately owned including but not limited to vacant land, rivers, waterways, catchments, and sewage and storm water systems, but excludes littering;
“environment”	has the meaning assigned to it in section 1 of the National Environmental Management Act 107 of 1998;

“environmental emergency”	means any unexpected or sudden occurrence resulting from any act or omission relating to waste, that causes, has caused or may cause significant harm to the environment human life, or property whether immediate or delayed;
“environmental management inspector”	has the meaning assigned to it in section 1 of the National Environmental Management Act 107 of 1998;
“environmental management principles”	means the principles in section 2 of the National Environmental Management Act 107 of 1998;
“event”	means sporting, entertainment, recreational, religious, cultural, exhibitioner, organisational or similar activities hosted at a venue or along a route or within precincts to which the public has access;
“event waste”	means waste that originates from an event held within the Municipality’s jurisdiction;
“e-waste”	any waste created by discarded electronic devices and components as well as substances involved in their manufacture or use;
“formalised recycling group”	means a group of persons whose main objective is the promotion of waste minimisation amongst the group and undertaking of recycling or processing;
“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 40mm at any point of its length, uncompactable waste and any waste generated as a result of commercial garden service activities or treating or recovery of waste;
“garden waste handling facility”	means a licensed waste handling facility provided or approved by the Municipality in or on which organic waste is received and temporarily stored;
“general business waste”	Means waste that emanates from premises that are used wholly or mainly for commercial, retail, wholesale, entertainment or government administration purposes which does not include hazardous business waste as contained in Category A of Schedule 3 of National Environmental Management: National Environmental Management Waste Act 59 of 2008;.,;
“hazardous waste”	means any waste that contains organic or inorganic elements or compounds that may, owing to the inherent physical, chemical or toxicological characteristics of that waste have a detrimental impact on health and/or the environment, including the hazardous waste listed in schedule 3 Category A of National Environmental Management: National Environmental Management Waste Act 59 of 2008;.,

“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;
“holder of waste”	means any person who imports, generates, stores, accumulates, transports, processes, treats, exports or disposes of waste;
“inert waste”	means waste that: <ul style="list-style-type: none"> <li>(a) does not undergo any significant physical, chemical, or biological transformation after disposal; or</li> <li>(b) does not burn, react physically, or chemically biodegrade or otherwise adversely affect any other matter or environment with which it may come into contact.</li> <li>(c) does not impact negatively on the environment because of its pollutant content and because the toxicity of its leachate is insignificant.</li> </ul>
“industrial waste”	Means waste in a solid form that emanates from manufacturing, mining, thermal and other industrial processes;
“informal recyclers”	means people who retrieve waste with a resale value from waste receptacles at residential and commercial premises; and informal recycling has a corresponding meaning.
“integrated waste management plan”	means any waste management plan required to be prepared in terms of this By-Law by specified generators or holders of waste;
“land reclamation”	means the planned and engineered disposal of inert or other waste with the object of constructing any facility or changing the natural features of any piece of land.
“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.
“litter pickers”	

means people who are appointed as general workers or contracted by the Municipality under to pick up litter within the Municipality's jurisdiction.

“local community”

means that body of persons comprising –

- (a) the residents within the Municipality's jurisdiction;
- (b) the ratepayers of the Municipality;
- (c) any civic organisation and non-governmental, private sector or labour organisation or body which is involved in local affairs within the Municipality's jurisdiction; and
- (d) visitors and other persons residing outside of the Municipality's jurisdiction who, because of their presence in that area, make use of services or facilities provided by the Municipality;

“municipality”

means:

- (a) the City of Ekurhuleni, as established in terms of Section 12(1), read with Section 14(2), of the Local Government Municipal Structures Act, Act 117 of 1998, as promulgated in notice 6768 of 2000, Gauteng Provincial Gazette 141, dated 1 October 2000; or
- (b) its successor in title; or
- (c) a structure or person exercising a power delegated in this By-Law or carrying out an instruction, which power has been delegated or sub-delegated or which instruction has been given, as contemplated in section 59 of the Local Government: Municipal Systems Act 32 of 2000; or
- (d) an accredited service provider appointed by the Municipality to deliver waste management services on its behalf;

“municipal service”

means service relating to the collection, transportation, and disposal of waste, including domestic waste, such quantity and type of general business waste, and dailies, as the Municipality may determine, which is provided by it in accordance with Chapter 3 of this By-Law.

“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”

means in relation to any premises, means any person:

- (a) who is in actual occupation of such premises and
- (b) if no person is in actual occupation thereof, any person who whether as owner, lessee or otherwise has, for the time being, control of such premises and shall include a street trader who occupies a site for the purpose of his business; and
- (c) in the case of premises let to more than one tenant, the person who receives the rent payable by the tenants whether for his or her own account or as an agent for a person entitled to the rent;

“organiser”

means any person who plans, oversees, manages, supervises, or holds an event or sponsorship rights to an event or in any manner controls or has a material interest in the hosting of an event;

“owner”

means:

- (a) the person who is the registered owner of the premises in the relevant Deeds Office;
- (b) where the registered owner of the premises is insolvent or deceased, or is under any form of legal disability whatsoever, the person on whom the administration and control of his or her property is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in any case where the Municipality is unable to identify the identity of such person, a person who is entitled to the benefit of the use of the premises, building or buildings on the premises;
- (d) in a case where such premises have been leased for a period of 30 years or longer, the lessee of the premises; or
- (e) in relation to – (i) a piece of land alienated on a sectional title plan registered in terms of the Sectional Titles Act No.1986 as common property, the developer or the body corporate in respect of the common property; or (ii) a section as defined in the Sectional Titles Act the person in whose name such section is registered under a Sectional Title Deed and includes the lawfully appointed agent of such a person; and

- (f) the registered owner, lessee or occupier of premises, or the person in charge or control of any premises or part thereof, or any person who obtains a benefit from the premises or who is entitled thereto;

“peace officer” means a law enforcement officer appointed by a municipality declared in terms of section 334 of the criminal procedure act, 1977 (act no. 51 of 1977).

“person” has the meaning assigned to it in section 2 of the Interpretation Act 33 of 1957, and includes an organ of state.

“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 persons, or will have such an effect in the future.

“premises” means:

- (a) any land without any buildings or other structures on it;
- (b) any building or other structure and the land on which it is situated;
- (c) any land which adjoins land referred to in paragraph (a) or (b), and any building or other structure on the adjoining land, if that land, building or structure is occupied or used in connection with any activity carried out on the premises referred to in paragraph (a) or (b).

“prescribed fee” means a tariff for the services which the Municipality may set for the provision of a municipal service to the local community, and includes a surcharge on such tariff.

“public place” means:

- (a) a public road;

(b) a public parking space; or

any square, park, recreation ground, sports ground, beach, shopping centre, municipal cemetery, open space, or vacant municipal land which is vested in the Municipality or in respect of which the public has the right of use, or which is shown on a general plan of a township filed in the Deeds Registry or a Surveyor General's office as having been provided for the use of the public or the owners of erven in such township.

“public road”

means any road, street or thoroughfare or any other place, whether a thoroughfare or not, which is 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.

“recovery”

when used in relation to waste, means the controlled extraction of a material or the retrieval of energy from waste.

“recyclable waste”

means waste which is capable of being separated from the waste stream for the purposes of future recycling.

“recycling”

means a process where waste is reclaimed for further use, which process involves the separation of waste from a waste stream for further use, and the processing of that separated material as a product or raw material.

“re-use”

means to utilise the whole, a portion of or a specific part of any substance, material or object from the waste stream for a similar or different purpose without changing the form or properties of such substance, material or object.

“resident”	means a person who is ordinarily resident within the Municipality’s area of jurisdiction.
“responsible person”	<p>a person who:</p> <ul style="list-style-type: none"> <li>(a) is responsible for waste</li> <li>(b) is responsible for the incident;</li> <li>(c) owns the waste involved in the incident; or</li> <li>(d) was in control of the waste involved in the incident at the time of the incident.</li> </ul>
“route”	means the way or course taken in getting from a starting point to a destination during an event which takes the form of a race or procession.
“SANS Code”	means the South African National Standard: 10228 – The Identification and Classification of Dangerous Goods for Transport.
“scrap dealer”	means any person engaged in buying or collecting, storing and recycling of waste especially metal, but does not include any person engaged solely in recycling metal cans, paper, cardboard or glass.
“storage”	means the accumulation of waste in a manner that does not constitute treatment or disposal of such waste;
“sustainable development”	means the integration of social, economic, and environmental factors into planning, implementation, and decision-making, to ensure that development serves present and future generations.
“Systems Act”	means the Local Government: Municipal Systems Act 32 of 2000.
“tariff”	means the user-charge for the provision of municipal services, determined and promulgated by the Municipality in a regulation made under Chapter 7 in terms of section 75 of the Municipal Systems Act
“Tyre dealer”	means any person or entity that distributes, or otherwise deals commercially in tyres.

“un-compactable waste”	means business or domestic waste which by its mass, shape, size or quantity, is inconvenient to remove in the routine door-to-door service provided by the Municipality.
“vector”	means an organism, such as a mosquito or tick, that transmits disease-causing microorganisms from an infected person or animal to another.
“venue”	means any area or place where an event is hosted.
“venue owner”	means a person who owns, manages or is entitled to exercise the rights of an owner or occupier of a venue used for events.
“verge”	means a verge as defined in the National Road Traffic Act 93 of 1996.
“waste”	<p>means:</p> <ul style="list-style-type: none"> <li>(a) any substance, material or object that is unwanted, rejected, abandoned or discarded or disposed of, or that is intended or required to be discarded or disposed of, by the holder of that substance, material or object, whether or not such substance, material or object can be re-used, recycled or recovered and include all wastes as defined in Schedule 3 to the Act; or</li> <li>(b) any other substance, material or object that is not included in Schedule 3 that may be defined as waste by the Minister by notice in the Gazette, but any waste or portion of waste referred to in paragraphs a) and b) ceases to be a waste – once an application for its re-use, recycling or recovery has been approved of, or after such approval, once it is, or has been re-used, recycled or recovered;</li> <li>(c) where approval is not required, once a waste is, or has been re-used, recycled or recovered;</li> <li>(d) where the Minister has in terms of Section 74 exempt in any waste or portion of waste generated by a particular process from the definition of waste; or</li> <li>(e) where the Minister has in the prescribed manner excluded any waste stream or a portion of a waste stream from the definition of waste.</li> </ul>
“Waste Collection Point”	mean residential areas, farms, area of business or commercial area, mines, open spaces and any area within council land where waste is generated.

“waste disposal facility”	means any site or premises used for the accumulation of waste with the aim of its disposal waste at that site or premises.
“waste handling facility”	means any facility on or in which waste is accepted, accumulated, handled, and sorted prior to its transfer for treatment, recycling, processing, and disposal.
“waste generator”	means any person whose actions, production, processes or activities, including waste management, results in the generation of waste.
“waste management activity”	has the meaning assigned to it in section 1 of the Act.
“waste management hierarchy”	<p>consists of options for waste management during the lifecycle of waste, arranged in descending order of priority:</p> <ul style="list-style-type: none"> <li>(a) waste avoidance and reduction;</li> <li>(b) re-use, recycling, and recovery; and</li> <li>(c) treatment and disposal as the last resort;</li> </ul>
“waste management officer”	means the municipal official designated in writing in Chapter 3 (Sections 10-13) of the Act, responsible for coordinating matters pertaining to waste management within the Municipality’s jurisdictional area, that is, regulating, controlling, managing, and enforcing the provisions of this By-Law and national and provincial legislation relating to waste management.
“waste management services”	means waste collection, treatment, recycling, and disposal services.
“waste stream”	means any type of waste, including domestic waste, general business waste, commercial business waste, and recyclable waste.
“waste transporter”	<p>means any person who conveys or transports waste:</p> <ul style="list-style-type: none"> <li>(a) between the waste generator, a waste handling facility, waste treatment facility or waste disposal facility; and</li> <li>(b) between waste handling facilities, waste treatment facilities, and waste disposal facilities; and</li> </ul>
“waste treatment facility”	means any site that is used to accumulate waste for the purposes of storage, recovery, treatment, reprocessing, or recycling of waste, excluding storage.

“waste tyre”	means a new, used, retreaded or unroadworthy tyre not suitable to be retreaded, repaired or sold as a part worn tyre and not fit for its original intended use.
“waste tyre collection point”	mean all areas of business from which tyres derived including commercial area where waste tyres may be collected including, but not limited to, mines, farms and tyre dealers.
“Waste tyre stockpile”	means the accumulation and piling of waste tyre in a residential, commercial, industrial, farm, plot and open space which falls within the jurisdiction of the Municipality.

### 3. **Application of this By-law**

This By-Law applies to all properties or premises within the area of jurisdiction of the Municipality, and to natural and juristic persons residing or operating therein.

## **CHAPTER 2 OBJECT OF THIS BY-LAW**

### 4. **The objectives of this By-Law are to:**

- (a) Promotion of the Waste Management Hierarchy in terms of National Waste Management Strategy;
- (b) Regulate the collection and removal of domestic waste, dailies and general business waste by the Municipality in order to ensure the efficient unaffected provision of the service;
- (c) Provide for the collection and removal of other types of waste
- (d) Ensure proper waste management of events;
- (e) Provide for the registration of waste transporters and generators;
- (f) Prohibit dumping and burning of waste and impose appropriate penalties on dumping and burning of waste and other offences; and
- (g) Manage and promote the recycling of waste, and provide for the regulation of informal recyclers.

### ENVIRONMENTAL MANAGEMENT PRINCIPLES AND THEIR ENFORCEMENT

5. **In implementing this By-Law, the Municipality may require any generator or holder of waste to take reasonable measures to ensure that the objectives are given effect to. These include, but not limited to:**
  - (a) providing information to the Municipality for the purpose of facilitating effective waste management within its jurisdiction;
  - (b) presenting proof to the Municipality that any activity which is required to be licensed or authorised in terms of any national or provincial law or this By-Law is so authorised; and
  - (c) investigating, assessing, and evaluating the impact that any activity, process, or situation within the Municipality's jurisdiction has on the environment and presenting the findings to the Municipality.
6. Any person exercising a power in accordance with this By-Law must always seek to promote the waste management hierarchy approach as outlined in the National Environmental Management Waste Act and the National Waste Management Strategy, with the aim of promoting waste avoidance, minimization, waste reuse, recycling and recovery, waste treatment, and disposal.
7. The Municipality shall, when exercising any function within its jurisdiction that may affect the environment, give effect to the environmental management principles listed in section 2 of the NEMA.
8. The environmental management principles shall apply alongside all other appropriate and applicable considerations, including the Municipality's responsibility to respect, protect, promote, and fulfil the social and economic rights in Chapter 2 of the Constitution, and specifically the basic needs of categories of persons disadvantaged by unfair discrimination.
9. The environmental management principles shall serve as the general framework within which environmental management plans must be formulated and implemented.
10. The environmental management principles serve as guidelines by reference to which any decision in terms of this By-Law or any statutory provision concerning the protection of the environment is taken; and
11. The environmental management principles guide the interpretation, administration, and implementation of this By-Law in relation to the protection or management of the environment.
12. The Municipality shall ensure that environmental management places people and their needs at the forefront of its concern, and serve their physical, psychological, developmental, cultural, and social interests equitably, and that development within the Municipality's jurisdiction is socially, environmentally, and economically sustainable.



13. This By-Law seeks to promote sustainable development and environmental justice through fair and reasonable measures for the management of waste within the Municipality's jurisdiction.
14. The By-Law seeks to promote participation by all persons, including juristic persons, within the Municipality's jurisdiction in the promotion of responsible citizenship by ensuring sound waste management practices within residential, business, and industrial environments.
15. Every person has a duty to manage any waste generated by his or her activities or the activities of those persons working under his or her direction in such a manner that the waste does not cause harm to human health or damage to the environment. In particular, the person must ensure that:
  - (1) waste generation is avoided, and where this is not practical, the toxicity and amounts of waste are minimised;
  - (2) waste is reduced, reused, recycled, or recovered;
  - (3) recyclable waste is handled by or through:
    - (a) contracting with the Municipality, whereupon the waste generator will be billed at the Municipality's standard charge in terms of the Tariff By-Law; or
    - (b) where the Municipality does not provide such a service, by contracting with an accredited service provider.
  - (4) where waste must be disposed, it is treated and disposed of in an environmentally sound manner;
  - (5) the waste is managed in such a manner that it does not endanger human health or the environment, or cause a nuisance through noise, odour, or visual impacts.
16. Every person who is a generator or holder of waste must:
  - (1) investigate, assess, and evaluate the impact that their activities, the process, or a situation have on the environment;
  - (2) inform and educate employees about the environmental risks of their work and the way their tasks must be performed to avoid causing damage to the environment;
  - (3) cease, modify or control any act, process, situation or activity which causes damage to the environment;
  - (4) contain or prevent the movement of pollutants or other causes of damage to the environment;
  - (5) eliminate or mitigate any source of damage to the environment, or the effects of the damage to the environment

17. Any person conducting an activity listed in annexure 1 of the National Waste Information Regulations 2012 shall conform with the National Waste Information Regulation.
18. Any person responsible for the disposal of waste must comply with the Waste Classification Management Regulations of 2013

## **CHAPTER 4**

### **THE MUNICIPAL SERVICE**

19. **Duty to Provide Access to the Municipal Service:**
  - (1) The Municipality has a duty to the local community to progressively ensure an 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, other than those persons who have been declared indigent by Municipality, to pay the prescribed fee for the provision of the municipal service, which fee shall be in accordance with any nationally-prescribed norms and standards for rates and tariffs; and
    - (b) 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 the municipal service.
  - (3) The Municipality shall take the following factors into account in ensuring access to the municipal service:
    - (a) the waste management hierarchy;
    - (b) the need to use resources efficiently;
    - (c) the need to ensure affordability;
    - (d) the requirements of operational efficiency;
    - (e) the requirements of equity; and
    - (f) the need to protect human health and the environment.
20. **Provision of the Municipal Service**
  - (1) The Municipality shall, as far as reasonably possible and subject to the provisions of this By-Law, provide for the collection of domestic waste and such quantity of general business waste and dailies as it may determine on a regular basis and at a cost to end-users decided according to its tariff's policy.
  - (2) The Municipality shall, subject to the provisions of section 9(2) of the National Environmental Management Waste Act, be the sole provider of the municipal service for the collection, transportation, and disposal of domestic waste within

its jurisdiction, but may appoint one or more service providers to carry out this function on its behalf.

- (3) In providing the municipal service the Municipality may determine:
  - (a) collection schedules;
  - (b) quantities of waste that will be collected;
  - (c) which premises require an increased frequency of the municipal service for reasons of health, safety, and environmental protection;
  - (d) the maximum amount of waste that may be placed for collection without the provision of an additional service or payment of an added prescribed fee;
  - (e) 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 this By-Law;
  - (f) waste streams that are unsuitable for collection by the Municipality, and if waste is determined to be unsuitable for collection, the owner of such waste shall be informed of the process for its collection; and
  - (g) locations for placing approved receptacles for collection.

## 21. **Provision and Replacement of Approved Receptacles**

- (1) Where the Municipality provides an approved waste receptacle, no person may place a receptacle for collection of waste by the Municipality other than the one that has been provided by it.
- (2) A receptacle provided by the Municipality remains its property and may not be removed from its storage space, except on days which the waste is collected and for the purpose of the waste collection only.
- (3) The owner or occupier of premises for which the Municipality provides an approved waste receptacle shall be liable for its replacement costs if such receptacle is lost or damaged, except where such loss or damage is caused by a Municipal employee or a service provider while carrying out their duties.
- (4) The Municipality may provide approved waste receptacles to owners and occupiers for the purpose of segregating waste, in which case owners and occupiers shall be obliged to segregate the waste accordingly; alternatively, the Municipality may place public waste receptacles into which the public may place their segregated domestic and business waste

22. **Compacting of Waste**

- (1) The Municipality may, if the quantity of domestic waste generated on premises requires the daily removal of more than the equivalent of eight 240-litre bins and the major portion of such waste is compactable, require the generator of such waste to compact that portion of the waste that is compactable and place it in a wrapper.
- (2) An owner or occupier of premises may choose to compact any volume of waste as contemplated in subsection (1).
- (3) The capacity of the wrapper may not exceed 85 litres. and the contents of the wrapper may not exceed 35 kilograms
- (4) Waste wrapped in compliance with this section shall be placed in an approved receptacle and stored in a manner that prevents damage to the wrapper or cause any nuisance until it is collected.
- (5) The receptacle used in terms of subsection (4) shall be collected, emptied, and returned to the premises by the Municipality on weekly basis or

23. **Obligations of Generators and Handlers of Domestic Waste, General Business Waste dailies, and Waste tyres.**

- (1) Any person generating domestic waste, general business waste, and dailies shall place such waste in an approved waste receptacle.
- (2) From the date of the notice contemplated in paragraph 19(1), generators or holders of the categories of waste prescribed in the aforementioned notice must dispose of the stipulated categories of recyclable waste in the manner prescribed in the notice.
- (3) 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.
- (4) The occupier or owner of premises must ensure that:
  - (a) no hot ash, unwrapped glass or other domestic waste, general business waste or dailies that may cause damage to approved waste receptacles or which may cause injury to the Municipality's employees while carrying out their duties in terms of this By-Law, 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 make an approved waste receptacle unreasonably difficult for employees of the Municipality to handle or carry, is placed in an approved receptacle;
  - (c) every approved waste 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 waste receptacle delivered by the Municipality is used for any purpose other than the storage of domestic waste, general business waste, or dailies, and that no fire is lit in such approved receptacle;
  - (e) an approved waste receptacle is placed outside the entrance to the premises before a time specified by the Municipality and on a day of the week specified by it through written notice to the owner or occupier of the premises, except where, on written application to the municipality, it 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 waste receptacle, placed according to paragraph (e), is not damaged and is properly closed 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.
  - (h) No person may recover or dispose of a waste tyre in a manner that is likely to have the potential to impact adversely on the public health wellbeing and the environment.
- (5) The owner or occupier of premises must provide space and any other facility considered necessary by the Municipality on the premises for the storage of approved waste receptacles.
- (6) The space provided for the storage of an approved waste receptacle, must:
- (a) be in a position on the premises which would allow the storage of any approved waste receptacle without it being visible from a public road or public place;
  - (b) if dailies are generated on premises:
    - (i) the receptacle must be in a position that will allow the collection and removal of that waste by the Municipality'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 Municipality;
  - (c) be so located as to allow convenient access to and egress from such space for the Municipality's waste collection vehicles;
  - (d) comply with any further requirements imposed by the Municipality through written notice to the owner or occupier of the premises; and
  - (e) be constructed according to the requirements of any applicable legislation relating to buildings.
- (7) The occupier of premises must place or cause any approved waste receptacle to be placed in the space provided in terms of subsection (5) and must keep them there at all times.

- (8) Notwithstanding the provisions of subsection (6):
- (a) in the case of a building erected, or the building plans of which have been approved, prior to the commencement of these By-Law; or
  - (b) in the event of the Municipality being unable to collect and remove waste from the space provided in terms of subsection (5), the Municipality may, having regard to the avoidance of a nuisance and the inconvenience of collection of waste, indicate a position within or outside the premises concerned where approved waste receptacles shall 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 Municipality may require.
- (9) The owner or occupier on which business or domestic refuse is generated shall within seven days after the commencement of the generation of such refuse notify the Municipality in writing:
- (a) That the premises are being occupied; and
  - (b) Whether business refuse or domestic refuse or both the aforementioned is being generated on the premises.
- (10) Where business or commercial premises is vacated it is the responsibility of the owner or occupier to inform the Municipality in writing on or before the day of vacating the that the service delivery should be ceased, and the tariff charge should be cancelled. Where a third party is removing refuse from business or commercial premises it is the responsibility of the owner or occupier to inform the Municipality that the service must not longer be rendered and that the tariff charged should be cancelled, failing which the owner or occupier will be held liable for the tariff charge for the full period.”

**24. Liability to Pay for the Municipal Service**

- (1) The owner or occupier of premises is liable to pay to the Municipality the prescribed fee for the provision of the municipal service in terms of the Municipality’s approved waste tariff policy, 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 prescribed fee becomes due and payable on the date stipulated in the account.
- (3) 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.
- (4) The Municipality may, at its sole discretion, and on payment by the owner or occupier or waste generator, provide collection and transportation in respect of commercial services.

WASTE MINIMISATION AND RECYCLING

25. **Waste Handling and Treatment facilities**

The Municipality shall establish appropriate waste handling and waste treatment facilities for the sorting and recycling of waste respectively.

26. **Reduction, Re-use, Recycling, and Recovery of Waste**

Any person who is undertaking reduction, re-use, recycling or recovery of waste including scrap dealers, waste treatment facilities, and formalised recycling groups must, before undertaking that activity, make sure that it is less harmful to the environment than the disposal of such waste.

27. **Registering with the Municipality, and Compliance with National and Provincial Laws**

(1) Re-use, recycling or recovery of waste shall be undertaken in a manner which complies with this By-Law, the National Environmental Management Waste Act, and any other applicable law.

(2) No person may undertake to generate, collect, transport, sort, store, re-use, recycle, recover or dispose waste with the intention of making profit, including scrap dealers, waste treatment facilities and formalized recycling groups, unless the undertaking is accredited in terms of Chapter 11 of this By-Law, or licensed or registered in terms of the National Environmental Management Waste Act.

28. **Informal Recyclers**

(1) No informal recycler may sort-out and repackage items anywhere at a public place other than the places that have been designated by the Municipality for informal recycling; provided that such designated places shall be kept tidy and clean at all times.

(2) Informal recyclers may not scatter the contents of the waste receptacles from which they retrieve items.

29. **Litter Pickers**

No person may pick up litter within the Municipality's jurisdiction unless they are appointed or contracted by the Municipality.

30. **Obligation to Separate Waste into Recyclables and Non-recyclables**

(1) The Municipality may through the instructions by the waste management officer, prescribe by notice that, from a prescribed date, areas, specified generators or holders of particular categories of waste, shall for the purpose of recycling, separate those categories of waste and must store, dispose of or treat the separated waste in the manner prescribed in the notice.

- (2) In cases where the Municipality, service provider, or the industry provides separate receptacles for recyclable material, no person may use other receptacles for recyclable materials.

**31. Storage, Collection, Treatment, Transportation, Disposal of Recyclable Waste**

- (1) The owner or occupier of premises on which recyclable waste is generated and separately stored, shall ensure that:
  - (a) until such waste is collected by an accredited service provider from the premises on which it was generated or stored, the waste is placed in an approved waste receptacle, and in a secure location;
  - (b) the approved waste receptacle in which the waste is stored is not kept in a public place, except when so required for collection;
  - (c) the approved waste receptacle placed for collection is not damaged and is properly closed to prevent the dispersal of its contents;
  - (d) every approved waste 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;
  - (e) nuisances such as odour, visual impacts, and breeding of vectors do not arise; and
  - (f) the waste is collected by an accredited service provider within a reasonable time after the generation thereof, but at least once per week.
- (2) An accredited service provider shall handle, treat or dispose of recyclable waste at a permitted waste handling, treatment or disposal facility.

## **CHAPTER 6**

### **INTEGRATED WASTE MANAGEMENT PLANS, AND MANAGEMENT OF CERTAIN TYPES OF WASTE**

**32. Preparation and Reporting on the Implementation of Integrated Waste Management Plans by Certain Generators or Holders of Waste.**

- (1) In addition to any other provisions in this By-Law regarding the preparation of integrated waste management plans, the Municipality may, through written instructions by the waste management officer, require present or future generators or holders of specified waste streams to prepare integrated waste management plans.
- (2) A notice referred to in subsection (1) shall specify the prescribed form needed for the integrated waste management plan and its submission date.
- (3) Any person who is required by the Municipality to prepare an integrated waste management plan may be required to review and update the plan, and to submit an amended plan at intervals specified by the Municipality.



33. **Contents of Integrated Waste Management Plans**

Any integrated waste management plan required in terms of this By-Law shall include at least:

- (1) an assessment of the quantity and type of waste that is or will be generated;
- (2) a description of the waste management services the generator will need;
- (3) the full details of the site/s or area/s where waste will be generated, stored, treated or disposed of;
- (4) a description of how the generator of the waste separates or intends to separate recyclable and non-recyclable material;
- (5) the waste minimisation and pollution prevention practices, and plans of such waste generator;
- (6) the methods of disposal or treating such waste;
- (7) a reporting plan on the implementation of the integrated waste management plan;
- (8) details of the person responsible for the implementation of the integrated waste management plan; and
- (9) any further information that the Municipality may in writing require.

34. **Storage, Collection, Composting and Disposal of Garden Waste, and Management of Un-Compactable Waste:**

- (1) The owner or occupier of premises on which garden waste is generated, may compost garden waste on the property, provided that such composting does not cause a nuisance or health risk.
- (2) The owner or occupier of the premises on which garden waste is generated and not composted, or on which un-compactable waste is generated, shall ensure that such waste is collected and disposed of within a reasonable time after the generation thereof. An owner, occupier or waste generator or an accredited service provider may remove and dispose of organic and un-compactable waste; provided that garden waste shall be deposited at a garden waste handling facility.

35. **Recovery and Safe Disposal of Certain Domestic Waste Streams**

- (1) If any domestic waste is prohibited from being disposed of into a common waste collection system:
  - (a) any person who in the ordinary course of business supplies goods, must accept the components, remnants, containers or packaging of such goods from any consumer, without charge to the consumer, irrespective of whether that person supplied the specific object to that particular consumer; and

- (b) any person who in the ordinary course of business produces, imports or distributes any such goods as part of the supply chain by which those goods reach the consumer, must in turn accept the return of, components, remnants, containers or packaging of such goods from any supplier contemplated in subsection (a).
- (2) If any regulation or industry waste management plan approved in terms of this By-Law or where any other legislation for the management of a specific waste type applies, the consumer may dispose or deposit the goods to a collection facility provided for in the regulation or industry waste management plan.

36. **Generation, Storage, Collection, and Disposal of Building Waste**

- (1) Any site development plan or building plan submitted to the Municipality for approval shall be accompanied by a building waste management plan setting out the way the building and other waste to be generated during construction will be managed.
- (2) The waste management plan must ensure that the waste is contained in a manner approved by the Municipality or within an approved waste receptacle provided by or leased from the Municipality.
- (3) No site development plan may be approved before the building waste management plan is approved.
- (4) A building waste management plan shall not be approved before a refundable deposit has been paid.
- (5) The owner or occupier of premises on which building waste is generated and any person conducting an activity which causes such waste to be generated, must ensure that:
  - (a) recyclable and non-recyclable waste is separated;
  - (b) non-recyclable waste is treated or disposed of in an environmentally-sound manner;
  - (c) until disposal, all building waste, together with the containers used for its storage, collection or disposal, is kept on the premises on which the waste was generated;
  - (d) the premises on which the building waste is generated does not become unsightly or cause a nuisance as a result of accumulated building waste;
  - (e) any building waste which is blown off the premises is promptly retrieved; and
  - (f) any instructions from the Municipality regarding the management and storage of building are adhered to, including construction of any structure.
- (6) No person may place building waste on a pavement or sidewalk unless he or she has obtained the Municipality's written consent, and such waste is placed in a skip.

- (7) Every receptacle used for the storage or removal of building waste, must:
  - (a) have a clearly-marked name, address, and telephone number of the person in control of such receptacle;
  - (b) be fitted with reflecting chevrons or reflectors which must completely outline the front and the back thereof; and be covered always other than when actually receiving waste or being emptied of such waste, so that no displacement of its contents can occur.
- (8) The owner or occupier of premises on which building waste is generated, or a developer as contemplated in subsection (1), shall ensure that the waste is collected, transported, disposed of or recycled by an accredited or licensed service provider after its generation.
- (9) All building waste must be deposited of at an appropriately licensed waste disposal facility, unless:
  - (a) the Municipality has given written consent for the building waste to be used for land reclamation, and all other authorisations required for this to have been obtained; or
  - (b) the building waste will be re-used or recycled by an accredited service provider; or
  - (c) the building waste will be treated at a licensed waste treatment facility.

**37. Hazardous Waste or Health-Care Risk Waste**

- (1) The Municipality is not obliged to collect and remove hazardous or health-care waste.
- (2) Any person carrying on an activity which generates hazardous or health-care risk waste shall ensure that such waste generated on the premises is kept and stored thereon until it is collected by an accredited service provider from the premises.
- (3) Hazardous or health-care risk waste on any premises shall be stored in such a manner that it does not become a nuisance or cause harm to human health or damage to the environment, and in compliance with the requirements of any applicable legislation.
- (4) Any person who stores hazardous or health-care risk waste shall, as a minimum, at least take steps to ensure that:
  - (a) the containers in which this waste is stored are intact and not corroded or in any other way rendered unfit for the safe storage of such waste;
  - (b) adequate measures are taken to prevent accidental spillage or leakage;
  - (c) the waste cannot be blown or washed away;

- (d) nuisances such as odour, visual impacts, and breeding of vectors, do not arise;
- (e) pollution of the environment and harm to health are prevented;
- (f) the waste is sealed in an impervious container, and suitable measures are in place to prevent tampering;
- (g) any waste items or substances are safe for handling, collection or disposal, and are not harmful to persons when accessed by unauthorised persons or members of the public; and
- (h) the waste is collected by an accredited service provider within a reasonable time after its generation.

**38. Collection and Disposal of Hazardous or Health-Care Risk Waste**

- (1) Only an accredited service provider may transport hazardous and health-care risk waste, and must do so in accordance with the conditions of an accreditation permit issued to him or her under Chapter 11, as well as the requirements of any 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 person accredited to collect and dispose of hazardous or health-care risk waste, must inform the Municipality at intervals stipulated in the accreditation permit issued in terms of this By-Law, of each removal of hazardous or health-care risk waste, the date of such removal, the quantity of the waste removed, the composition of the waste removed, and the waste disposal facility at which the waste has been disposed of.
- (3) Any person carrying on an activity which generates hazardous or health-care risk waste must ensure that such waste is disposed of or treated at an appropriately- licensed waste disposal facility or waste treatment facility. If such facility is a waste incineration facility, then further steps shall be taken to ensure that such facility has the requisite licence in terms of the National Environmental Management: Air Quality Act 39 of 2004.
- (4) The Municipality may, by notice in writing, instruct a waste generator who generates special hazardous waste or health care waste to remove the waste, or cause the waste to be removed by an accredited or licensed provider, either to a waste disposal site or to an incinerator.

**39. Industrial Waste**

- (1) Industries operating within the jurisdictional area of the Municipality must manage the impact of their production processes and products on the environment by adopting cleaner production methods.
- (2) The industries must, pursuant to subsection (1), and without derogating from the other provisions of this By-Law:
  - (a) minimise waste that is generated during the production phase;

- (b) use less resources during the production phase;
- (c) re-use and recycle waste and by-products;
- (d) design their products so that they release zero or minimal hazardous waste over their life cycle; and
- (e) design their products so as to generate minimal waste at the end of their life-cycle.

40. **Event Waste**

- (1) An organiser of an event or a venue owner must contract with an accredited service provider for the provision of waste management services at the event.
- (2) An organiser of an event or a venue owner is liable for the full cost of the collection, clean-up, recycling, and disposal of waste generated by the event, and shall submit an event waste management plan to the Municipality for approval at least 30 (thirty) days before the commencement of the event.
- (3) The waste management plan shall include
  - (a) Full names and contact details of the event organiser;
  - (b) Full names and contact details of the owner of the premises at which the event will be held;
  - (c) The nature and duration of the event;
  - (d) The estimated costs of waste management associated with event;
  - (e) and the information as required by the Municipality including who will be responsible for the removal and disposal of the waste.
- (4) The organiser or venue owner shall be required to pay a refundable deposit of an amount determined by the Municipality, and enough to cover the costs of cleaning-up and disposing of the event waste after the event.
- (5) Such deposit shall be paid at least 5 (five) days before the event and shall not bear interest.
- (6) The event organiser or venue owner shall be refunded the deposit paid in terms of this section after the event and upon proof of full compliance with the approved waste management plan.
- (7) If the waste generated by an event is not adequately managed, the Municipality may take the necessary steps to manage the waste including arranging for the cleaning-up, collection, recycling, and disposal of the event waste.
- (8) Costs incurred by the Municipality in terms of subsection (6) shall be recovered from the deposit paid by the organiser of the event or owner of the venue and the Municipality shall further be entitled to recover the deficit through other legal measures at its disposal.

#### 41. Waste Tyre

- (1) No person may store and/or stockpile waste tyre in a manner that has the potential to cause pollution of the environment or harm to health and well-being.
- (2) Any person who wishes to stockpile or store waste tyres for whatsoever purpose must apply for Waste accreditation permit to the municipality in terms of Chapter 11 of this bylaw. This is applicable regardless of duration, height of such stockpile, and area coverage of such storage or stockpile. In consideration of such application, the following shall be submitted to the municipality:
  - (a) A waste tyre storage plan to ensure that the storage of waste tyres does not cause pollution of the environment or harm to health and well-being.
  - (b) A stockpile abatement plan to ensure that the stockpiling of waste tyres do not cause pollution of the environment or harm to health and well-being.
- (3) No person may recover or dispose waste tyre in a manner that has the potential to cause pollution of the environment or harm to health and well-being.
- (4) The owner of the vehicle will be held accountable for his/her vehicle if the vehicle is caught illegally transporting waste tyres.
- (5) Waste tyre depots shall keep records of all who collect tyres from them.
- (6) Depots are regarded as graves in the waste tyre life cycle by the municipality therefore any waste tyre activity beyond shall be referred to Waste bureau.

## CHAPTER 7

### ENVIRONMENTAL EMERGENCIES

#### 42. **Environmental Emergencies**

In the case of an environmental emergency, the owner or occupier of the premises, the waste generator, or the person who was responsible for the waste when the environmental emergency occurred, must notify the Minister and MEC of the contamination caused by the environmental emergency in terms of Section 36(5) of The National Environmental Management: Waste Act 59 of 2008.

- (1) The owner or occupier of the premises, the waste generator, or the person who was responsible for the waste when the environmental emergency occurred, must also notify the Municipal Waste Management Officer within 24 hours before the municipality can offer services.
- (2) The Municipality may arrange for the management of the emergency; including the clearing and cleaning of debris and pollution effects, transporting, and disposing of the waste at a licensed waste disposal facility
- (3) The Municipality may also arrange, manage, and co-ordinate the remediation of the contaminated natural environment.
- (4) The costs incurred by the Municipality in relation to the management of the environmental emergency shall be for the account of the person responsible for the emergency in terms of subsection (1).

#### 43. **Control of Environmental Incidents**

- (1) In this section “incident” includes any incident or accident that:
  - (a) has the potential to pollute the environment including the water resources, land and air within the Municipality’s jurisdiction area;
  - (b) has, or is likely to have, a detrimental effect on the environment water, land and air resource within the Municipality’s jurisdiction area.
- (2) The responsible person or any member of the public with knowledge of the emergency incident must, within 24 hours after obtaining knowledge of the incident, inform the Municipality thereof immediately, and for the responsible person to take all reasonable measures to contain and minimise the effects of the pollution by undertaking clean-up procedures and remedying the effects of the incident.
- (3) If the person responsible fails to take any reasonable measures or takes inadequate measures, then the Municipality may arrange for the management of the emergency incident, including the clearing and cleaning of debris and pollution effects, transporting, and disposing of the waste at a licensed waste disposal facility.
- (4) The Municipality may also arrange, manage, and co-ordinate the remediation of the natural environment.

- (5) The costs incurred by the Municipality in relation to the management of the emergency incident shall be for the account of the responsible person in terms of subsection (2).

## **CHAPTER 8**

### **COLLECTION, TRANSPORTATION, TREATMENT, AND DISPOSAL OF WASTE**

#### **44. Collection of Waste**

No person may collect waste for removal from premises, unless such person is:

- (1) the Municipality or a service provider contracted to it for this purpose; or
- (2) has been accredited under Chapter 11 of this By-Law and, where applicable, has obtained the requisite licence or authorisation in terms of any national or provincial law.

45. The occupier(s) and/or owner(s) of premises on which business, industrial waste is generated shall use the Municipal services except in cases where special written exemption is granted by the Municipality to occupier(s) and/or owner(s) of business or industrial premises to make use of private companies for refuse removal services subject to the Municipal exemption criteria being met.

46. Premises and residential households on which domestic waste is generated shall use Municipal collection services only. No written exemption to make use of private companies for domestic waste removal services can be made by such owners nor shall it be granted by the Municipality.

#### **47. Transportation of Waste**

(1) No person may:

- (a) transport waste within the area of jurisdiction of the Municipality, unless he or she is accredited in terms of Chapter 11 of this By-Law, excluding the transportation of domestic waste by the owner or occupier for the purposes of placing the waste in approved waste receptacles for goods to be recycled, or at approved the mini disposal sites;
- (b) operate a vehicle for the conveyance of waste upon a public road, unless the vehicle has a body of an adequate size and construction for the type of waste being transported;
- (c) fail to maintain a vehicle used for the conveyance of waste in a clean, sanitary, and roadworthy condition at all times;
- (d) fail to cover loose waste on an open vehicle with a tarpaulin or suitable net;
- (e) cause or permit any waste being transported in or through the Municipality's jurisdiction to become detached, or to leak or fall from a vehicle transporting it, except at a waste disposal facility;
- (f) transport waste in a manner that would cause nuisance or environmental pollution.



- (2) Subject to the provisions of subsection (1), all transportation of waste must comply with the National Road Traffic Act 93 of 1996.
- (3) Any person engaged in the transportation of waste shall take all reasonable measures to prevent any spillage of waste or littering from a vehicle used to transport waste, and where waste is spilled, immediately clean-up the spilled waste.

48. **Disposal of Waste**

- (1) Waste within the jurisdictional area of the Municipality, including recycled or treated matter, may only be disposed of by an accredited service provider, at a waste disposal facility licensed or permitted to accept such waste.
- (2) In disposing of waste, an accredited service provider shall comply with the provisions of subsection (3) and with the provisions of any other law regulating the disposal of waste.
- (3) Subject to NEMWA and the Waste Classification regulations and National Norms and Standards for the assessment of waste to landfill, the Municipality may, by a means of a written notice, direct that a category of waste be disposed of at a particular waste disposal facility or waste handling facility; where the Municipality has so directed, no person may dispose of such waste at a waste disposal facility which is not, in terms of the notice, designated to receive that category of waste.
- (4) No person may burn waste either in a public or private place, for the purpose of disposing of that waste and/or salvaging the other products e.g scrap metal
- (5) No person may incinerate waste either in a public or private place, except in an incinerator at a place where the relevant national or Gauteng provincial authorities permit such incineration in terms of a valid licence, or at a place designated by the Municipality for that purpose.
- (6) A person may dispose of domestic waste specified by the Municipality in a notice in terms of subsection (3) at a designated 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 1 (one) ton or less.
- (7) The disposal of waste at any waste disposal facility is, in addition to any condition imposed by the provincial and national departments, subject to such conditions as the Municipality 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 Municipality considers necessary to ensure the environmentally-sound management of waste.
- (8) Any person who enters a waste disposal facility shall:
  - (a) do so 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 Municipality or that person with any information about the composition of the waste disposed of or to be disposed of; and
  - (c) comply with any instruction by the person in charge of the waste disposal facility in respect of access to the actual place where, and the manner in which, waste must be deposited.
- (9) 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 this By-Law, unless authorised to do so by the person in charge of the waste disposal facility or the Municipality, and then only at such times and subject to such conditions as the Municipality 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) No person may dispose of waste tyre at a waste disposal facility.
  - (e) light a fire in a waste disposal facility without the prior written consent of the person in charge of that facility.
- (10) Any person who contravenes sub-subsection (9)(c) shall be liable for all costs reasonably incurred by the Municipality in removing or otherwise dealing with the waste concerned.
- (11) 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.
- (12) 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.
- (13) 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 an authorised official.

49. **Waste Handling Facilities, Waste Treatment Facilities and Waste Disposal Facilities**

- (1) Waste handling, treatment and waste disposal facilities operating within the area of jurisdiction of the Municipality shall be appropriately licensed by the provincial or national authorities and be accredited in terms of Chapter 11 of this By-Law.

- (2) Waste management activities in facilities referred to in subsection (1) must be undertaken in compliance with the provisions of this By-Law, licensing conditions, and any other applicable legislation.

## **CHAPTER 9**

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

#### **50. Accumulating Waste**

Every owner and occupier of premises shall 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.

#### **51. Duty to Provide Facilities for Litter**

- (1) The Municipality or, in the case of privately-owned premises, the owner, shall take reasonable steps to ensure that enough approved receptacles are provided for the discarding of litter by the public on any premises to which the public has access.
- (2) The Municipality or owner of privately-owned premises shall 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 it is weatherproof and animal-proof;
  - (d) of adequate size to ensure that all waste likely to be generated on the premises is sufficiently provided for;
  - (e) placed in a location convenient for the use by members of the public; and
  - (f) emptied and cleansed periodically, to ensure that no receptacle or its contents become a nuisance.

#### **52. Prohibition of Littering**

- (1) No person may:
  - (a) cause litter;
  - (b) sweep any waste into a gutter, onto a road reserve, or onto any other public place;

- (c) disturb anything in, or remove anything from, any receptacle which has been placed for the purposes of collecting litter in such a manner as to cause 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 paragraphs (a), (b) or (c).
- (2) The Municipality or owner of private land shall, within a reasonable time after litter has been discarded, dumped or left behind, remove such litter or cause it to be removed from the premises to prevent it from becoming nuisance.

**53. Prohibition of Dumping**

- (1) No person may dump waste.
- (2) 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 this By-Law.
- (3) Subject to any provision to the contrary in this By-Law, no person may leave anything under his control at a place where such thing has been brought with the intention of abandoning it.
- (4) Where a person has left any object or allowed something to be left at a place which he or she is not the owner or occupier, he or she shall be deemed to have contravened the provisions of subsections (2) or (3), until the contrary is proved.

**54. Duty to Prevent Land or Building from being used for Dumping**

- (1) The owner or occupier of any land or building shall take reasonable measures to prevent such land or building from being used for dumping, and to clean up all waste dumped on or at the land or building immediately upon becoming aware of same or being notified of same.
- (2) The measures required in terms of subsection (1) may include:
  - (a) fencing-off the land or building;
  - (b) erecting “no dumping” signs; and
  - (c) security measures to monitor and enforce anti-dumping measures on the land or building.
- (3) If any land or building is used for dumping and, in the reasonable opinion of the Municipality, the owner or occupier has failed to take reasonable measures to prevent dumping and to clean-up waste dumped on the property, the Municipality may direct the owner or occupier to fence-off the land or building and/or to erect notices to prevent further dumping.
- (4) Should the owner or occupier of any land or building fail to comply with a directive under subsection (3), the Municipality or authorised official may take reasonable measures to prevent dumping on the property and may recover its costs incurred in that regard from the owner or occupier.
- (5) The owner shall be liable for the costs of the rehabilitation of the land contaminated by the dumping of waste.

**55. Disposal of dumped or abandoned articles**

- (1) 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 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 Municipality as having been abandoned, may be removed and, subject to the provisions subsection (3), disposed of by the Municipality as it deems fit.
- (2) The Municipality may remove and, subject to the provisions of subsection (3), dispose of any article which is chained or fastened to any pole, parking meter, or any other property of the Municipality, as it deems fit.
- (3) If an article contemplated in subsection (1) or (2) is, in the opinion of the Municipality, of significant financial value, the Municipality 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 Municipality's intention to dispose of it, and inviting the owner, or person legally entitled thereto, to claim the article within 30 (thirty) 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.
- (4) The Municipality may recover any reasonable and necessary expenditure which it has incurred in disposing of an article contemplated in subsection (1) or (2) from the proceeds derived from disposing of the article.
- (5) Notwithstanding the provisions of any other law, no person is civilly or criminally liable or may be dismissed, disciplined, prejudiced or harassed on account of having disclosed any information, if the person in good faith reasonably believed at the time of the disclosure that he or she was disclosing evidence of an environmental risk and the disclosure was made in accordance with subsection (2).
- (6) Subsection (1) only applies if the person concerned disclosed the information concerned to the Municipality or an organ of state responsible for protecting any aspect of the environment or emergency services.

**CHAPTER 10**

**GENERAL PROVISIONS**

**56. Establishment of a Waste Information System and Provision of Information**

- (1) The Municipality shall establish and maintain a waste information system to record and report on all waste management activities within its area of jurisdiction for the purposes of:
  - (a) facilitating effective waste management within its jurisdiction;
  - (b) gathering information and undertaking strategic planning about the delivery of the municipal service;
  - (c) monitoring waste management activities within the municipal area;

- (d) monitoring progress made on targets set by the Municipality;
  - (e) assessing waste minimisation within the Municipality's jurisdiction;
  - (f) preparing the Municipality's integrated waste management plan;
  - (g) fulfilling the Municipality's internal and external waste management reporting requirements; and
  - (h) for any other purposes the Municipality deems fit.
- (2) The Municipality may, by notice or in writing to any specific holder or generator of waste or any other person who undertakes a waste management activity within the Municipality's jurisdiction, require persons concerned to provide information in the prescribed form and within the prescribed period or at the prescribed intervals to the Municipality for the purposes of subsection (1).

**57. Ownership of Waste**

- (1) All refuse on premises controlled by the Municipality, including landfill sites, refuse transfer stations or mini disposal sites, shall be the property of the Municipality and no person who is not duly authorised by it shall remove or interfere therewith.
- (2) Waste that is collected by the Municipality or service providers appointed by it shall become the property of the Municipality upon its collection.
- (3) A person who has is responsible for a waste management activity and who is accredited in terms of Chapter 11 of this By-Law, is the owner of all the waste that he or she handles.

**CHAPTER 11**

**ACCREDITATION FOR WASTE MANAGEMENT ACTIVITIES**

**58. Accreditation Permits for Service Providers and Waste generators**

- (1) The Municipality may accredit service providers and waste generators to discharge any of its obligations and to perform any municipal and commercial service, which do not constitute Waste Management Activity as defined in the National Environmental Management Waste Act.
- (2) No person may provide a commercial waste management service without a valid accreditation permit issued by the Municipality and where applicable, without a relevant licence issued by the national or provincial authorities.
- (3) An accreditation permit issued under this Chapter:
  - (a) is incapable of cession or assignment without the prior written consent of the Municipality;

- (b) is valid only for the service and category of waste specified therein; and
- (c) is valid for the period set out in the permit.

**59. Accreditation Permit Applications**

- (1) An application for an accreditation permit to provide a commercial service must be:
  - (a) made in writing on a form prescribed by the Municipality, and accompanied by the documents specified in that form; and
  - (b) accompanied by the prescribed fee.
- (2) The Municipality may request an applicant to furnish it with any additional information before it considers the application.
- (3) A decision by the Municipality must, subject to the provisions of subsection (6), be made within 60 (sixty) days of receipt of an application or additional information requested in terms of subsection (2), and the Municipality may decide to:
  - (a) require the applicant to comply with such reasonable conditions as it may impose before it grants the application;
  - (b) issue a permit unconditionally, or issue it subject to conditions; or
  - (c) refuse a permit.
- (4) A decision to issue or refuse a permit or to issue it subject to conditions, must be consistent with:
  - (a) the provisions of this By-Law;
  - (b) the national environmental management principles in terms of Chapter 1 section 2 of National Environmental Management Act 107 of 1998;
  - (c) the National Environmental Management Waste Act 59 of 2008;
  - (d) the Promotion of Administrative Justice Act 3 of 2000; and
  - (e) any other applicable legislation.
- (5) Notwithstanding subsections (3) and (4), an accreditation application by a service provider or waste generator who is licensed by the national or provincial authorities to undertake or conduct a waste management activity shall, upon the applicant providing a copy of a valid waste management licence and any information reasonably required by the Municipality, be granted.
- (6) After the Municipality has reached a decision in respect of an accreditation permit application, it must, within 20 (twenty) days, notify the applicant of the decision.
- (7) If the Municipality is unable to make a decision on an application within 60 (sixty) days of receipt thereof, or of receipt of additional information requested in terms of subsection (2), it shall inform the applicant in writing that the period for consideration is extended and must inform the applicant of the date by which a decision shall be made.

60. **Suspension and Revocation of Accreditation**

- (1) An accreditation permit issued under this Chapter may be suspended or revoked by the Municipality on the grounds that the service provider or waste generator:
  - (a) is in breach of its waste management licence conditions, and the national or provincial authorities have suspended or revoked the licence;
  - (b) has failed to comply with any provision of this By-Law;
  - (c) has failed to comply with any provision of any national or provincial legislation which regulates the collection, transportation or disposal of waste;
  - (d) has failed to comply with any accreditation permit condition; or
  - (e) on any other ground which the Municipality considers relevant, which is fair and reasonable in the circumstances.
- (2) An accreditation permit may only be suspended or revoked after:
  - (a) the permit holder has been given written notice that the Municipality is considering the suspension or revocation of the permit; and
  - (b) after the permit holder has been given a period of (30) thirty days after service of the notice to make representations to the Municipality as to why the permit should not be suspended or revoked.
- (3) The Municipality shall:
  - (a) make a decision within 14 (fourteen) days of receipt of the representations contemplated in subsection (2)(b), if any, or within 14 (fourteen) days after the permit holder informed the Municipality that he or she does not wish to make representations, or within 14 (fourteen) days of the expiry of the period referred to in subsection (2)(b), whichever date is the earliest; and
  - (b) inform the permit holder of its decision in writing within 7 (seven) days of making it.
- (4) Subject to the provisions of the Promotion of Access to Information Act 2 of 2000, the Municipality may not disclose any confidential commercial information submitted as part of an accreditation permit application procedure to any person other than a Municipal official requiring such information to perform his or her functions for the purposes of this By-Law.

61. **Terms and Conditions for Accreditation**

- (1) When issuing an accreditation permit under this Chapter, the Municipality may impose any valid conditions in furthering its waste management policy.
- (2) An accreditation permit issued under this Chapter shall:
  - (a) specify the period for which the permit is valid, and the procedure for renewing it;
  - (b) specify the nature of the commercial service the permit holder may provide;



- (c) specify every category of waste in respect of which the permit holder may provide a commercial service;
- (d) contain conditions that the permit holder shall comply with, and ensure compliance by his or her employees, agents and sub-contractors, with this By-Law and any applicable national and provincial legislation;
- (e) require the permit holder to keep monthly written records on a form prescribed by the Municipality of the quantities of each category of waste stored, collected, transported, treated or processed during the permit period; and
- (f) keep such monthly records for a period of 5 (five) years and immediately supply the same to the Municipality upon receipt of a written request issued by the Municipality to do so.

**62. Renewal of Accreditation Permits**

- (1) An accreditation permit holder who wishes to renew his or her accreditation shall at least 90 (ninety) days prior to the expiry of the existing permit:
  - (a) apply on the prescribed form to renew the permit concerned; and
  - (b) pay the prescribed renewal fee.
- (2) Before considering an application made in terms of subsection (1), the Municipality may require the applicant to furnish such information as it may require.
- (3) The Municipality shall consider and grant or reject an accreditation permit renewal application within 60 (sixty) days of the receipt of the application.
- (4) If the Municipality fails to consider and grant or reject an accreditation permit renewal application within 60 (sixty) days, it shall inform the service provider in writing that the period for consideration is extended and of the date by which a decision shall be made.
- (5) An accreditation permit 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 renewal application.

**63. Display of an Accreditation Permit**

- (1) Upon issuing an accreditation permit under this Chapter, the Municipality shall issue to the applicant a permit sticker for each waste transporting vehicle or a signed and dated certificate to a waste treatment facility.
- (2) An accreditation permit holder must affix such permit sticker to each vehicle used to collect and transport waste, and prominently display the certificate or permit at all premises utilised for providing the commercial service.

**64. Prohibited Conduct**

- (1) An accreditation permit holder shall not:
  - (a) intentionally or negligently operate in contravention of any condition of the accreditation permit or any other environmental legislation, including

the NEMA and the National Environmental Management: Waste Act 59 of 2008;

- (b) intentionally or negligently fail or refuse to give information to an authorised official or a peace officer when required to do so in terms of this By-Law or the National Environmental Management Waste Act 59 of 2008, or give false or misleading information;
- (c) intentionally or negligently fail to take all reasonable steps to prevent a contravention of this By-Law by any act or 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 being dependent on the waste stream collected or transported, as specified in the National Road Traffic Act.

**65. Transitional provisions**

- (1) Any person who is, at the commencement of this By-Law, lawfully providing a commercial service for which an accreditation permit is required under this Chapter, may continue providing such service provided that within 90 (ninety) days of such commencement, or such extended period as Municipality may prescribe, such person makes application for an accreditation permit in terms of this By-Law, failing which such person's right to provide such service shall lapse.
- (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 12**

**ENFORCEMENT OF THIS BY-LAW,**

**66. Enforcement**

- (1) The Municipality shall appoint suitably-qualified authorised officials and designated peace officers for the enforcement of this By-Law.
- (2) An authorised official and environmental management inspector shall, upon appointment, be issued with an identification document by the Municipality and Provincial and National Department respectively which must state the name and designation and include a photograph of the official.
- (3) An authorised official, exercising his powers or performing his functions and duties for the purposes of this By-Law, shall present an identification document issued in terms of subsection (2) on demand by a member of the local community.

**67. Powers of Authorised Officials and Peace officers**

- (1) The peace officers shall have all the powers bestowed upon them in terms of Chapters 2, 5, 7 and 8 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) -

- (2) In addition to the powers, functions, and duties an authorised official and/or peace officer has by virtue of his appointment as such, he 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.
- (3) If consent is not obtained in terms of subsection (2), a vehicle or other mode of conveyance may be searched or stopped and searched, only pursuant to a valid search warrant issued by a magistrate:
  - (a) if, in the opinion of an authorised official and /or peace officer, 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, are necessary to mitigate harm to human health or damage to the environment; and
  - (b) in the event of a refusal or failure to comply with an instruction given in terms of paragraph (a), the authorised official and /or peace officer, may report the matter to the Ekurhuleni Metropolitan Police Department with a view to seizure and impoundment of the vehicle concerned in terms of the Criminal Procedure Act 51 of 1977.
- (4) The Municipal authorised official and /or peace officer, may, subject to Section 101 of the Municipal Systems Act 32 of 2000 enter any premises if a magistrate has issued a search warrant to enter premises, for the purposes of ascertaining compliance with:
  - (a) this By-Law; or
  - (b) a term or condition of an accreditation permit issued in terms of Chapter 9 of this By-Law.
- (5) The authorised official and /or peace officer, who has a search warrant referred to in subsection (4), is allowed to:
  - (a) inspect any document that a person is required to maintain in terms of any law or that may be relevant to any work or inspection;
  - (b) copy any document referred to in paragraph (a) or if necessary, remove the document in order to make the copy;
  - (c) take samples of any substance that is relevant to the work or inspection; and
  - (d) take photos or make audio-visual recordings of anything or any person, process, action or condition on or about any premises.

## 68. Powers to Question

- (1) For purposes of administering, implementing, and enforcing the provisions of this By-Law, an authorised official may require a permit holder 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 this By-Law relates, and require that the disclosure be made on oath or affirmation.

- (2) An authorised official and /or peace officer, may, for the purposes of subsection (1), be accompanied by an interpreter and any other person reasonably required to assist that official.

69. **Observance of human rights**

The exercise by an authorised official and/or peace officers of any powers under this By-Law should be undertaken with strict regard to decency; orderliness; and each person's human rights including the right to dignity, freedom, security and privacy in terms of Chapter 2 of the Constitution, Bill of rights.

70. **Supervision of Holders of Accreditation Permits**

- (1) An authorised official and/or peace officer, may inspect every workplace of an accreditation permit-holder at a frequency determined by the Municipality provided that should the authorised official and/or peace officer find an accredited service-provider contravening the provisions of this By-Law he or she may inspect the workplace in question at more regular intervals until the contravention ceases.
- (2) An accreditation permit holder must allow an authorised official and/or peace officer access for the purposes of an inspection in terms of subsection (1).
- (3) If an authorised official and/or peace officer is, after an inspection in terms of subsection (1), of the opinion that an accreditation permit-holder is complying with this By-Law, he may issue an accreditation permit-holder with a letter confirming such compliance, in which it shall be stated:
  - (a) the name and residential and postal addresses of the accreditation permit-holder;
  - (b) the address of the premises inspected;
  - (c) the time, date, and scope of the inspection
  - (d) compliance conditions; and
  - (e) any remarks which, in the opinion of an authorised official, may be relevant.
- (4) If an accreditation permit-holder fails to obtain a letter confirming compliance at 3 (three) consecutive inspections, an authorised official and/or peace officer may recommend that the Municipality review the accreditation permit concerned and, should there be reasonable grounds, the Municipality may suspend or revoke the accreditation permit.

- (5) If during an inspection by an authorised official and/or peace officer it becomes apparent that any contravention by an accredited permit holder has caused or may cause significant pollution or degradation of the environment, then the authorised official and/or peace officer may recommend to the Municipality that the accreditation permit be suspended with immediate effect until such time that the accredited permit-holder has taken reasonable measures to prevent such pollution or degradation from continuing or recurring.
- (6) In the event that the accredited permit-holder fails to take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, then the Municipality may permanently revoke the accreditation permit and take necessary measures to remedy the situation and recover the costs from the accredited permit-holder for the reasonable remedial measures taken and accredited permit-holder will be issued with a fine.
- (7) An authorised official and/or peace officer shall keep a register recording each inspection which he or she has undertaken, in terms of subsection (1).

#### 71. **Contravention Notices**

If, in the opinion of an authorised official and/or peace officer, a person is contravening any provision of this By-Law, that official shall in writing issue a contravention notice and serve it on the person concerned

- (1) An authorised official and/or peace officer who is satisfied that the person served with the contravention notice has complied with the terms of the notice, shall issue a compliance letter to that effect.
- (2) A contravention notice remains in force until an authorised official and/or peace officer has issued a compliance letter in respect of that notice.
- (3) A contravention notice shall set out:
  - (a) Name of the person
  - (b) Name of the business
  - (c) Physical address;
  - (d) the provision that has not been complied with;
  - (e) details of the nature and extent of non-compliance;
  - (f) any steps required to be taken, and the period within which they must be completed; and
  - (g) any penalty/fine that may be imposed in terms of this By-Laws if the steps mentioned in sub-subsection (c) are not taken.
- (4) If a person fails to comply with a contravention notice issued in terms of subsection (1), an authorised official and/or peace officer, the Municipality may take the necessary steps to clean-up or remove the waste, or to rehabilitate the premises, place, or the affected environment, and/or such person shall be guilty of an offence and liable to a fine.
- (5) The Municipality may recover reasonable costs it has incurred in terms of subsection (4) from the person concerned.

- (6) The following persons, but not limited to, may be served with a contravention notice:
  - (a) person who committed, or who directly or indirectly permitted the occurrence of the contravention;
  - (b) the waste generator;
  - (c) the waste transporter;
  - (d) the owner of the premise/s where the contravention took place;
  - (e) the person in control of the premises or premises where the contravention took place; or
  - (f) the person who had the right to use the premises or premises when the contravention took place.

72. **Representations**

- (1) Any person on whom a contravention notice as contemplated in section 58(1) or a directive contemplated in section 54(4) was served, may make representations by submitting a sworn statement or affirmation to the Municipality within a period set out in the notice or directive contravention notice.
- (2) Representations not lodged within the period set out in the notice or directive shall not be considered, except if the person concerned has shown good cause for condonation, and the Municipality condones the late lodging of the representation.
- (3) The Municipality shall consider the representation and any response thereto by an authorised official and/or peace officer, if any, and may conduct any further investigation to verify the relevant facts.
- (4) Should the Municipality conduct a further investigation, the results of such investigation must be made available to the person who made the representation so that such person may be given an opportunity to respond thereto, and the Municipality shall consider such response.
- (5) After the Municipality is satisfied that, inter alia, the requirements of subsection (3) and (4) have been satisfied, it shall make an order in writing and serve a copy of it on the person concerned, setting out its findings.
- (6) Such a notice:
  - (a) may confirm, alter, or set aside in whole or in part, the directive or contravention notice concerned; and
  - (b) shall, if applicable, specify the period within which the person concerned must comply with the order.
- (7) If a person makes representations in terms of subsection (1), any requirement to comply with the directive or contravention notice concerned is suspended until an order is made in terms of this subsection unless, in the opinion of the

Municipality, an environmental emergency has been caused in which event and without derogating from any right that the person concerned may have or acquire to any relief of whatever nature, the person concerned must immediately comply with such directive or notice on being instructed, orally or in writing, by the Municipality to do so.

- (8) If a person fails to comply with such an order in terms of subsection (5), the Municipality may itself cause the environmental emergency to be stopped, reversed or abated, and recover any expenditure it has incurred or may incur in taking those steps, from that person.

### 73. **Exemptions**

- (1) Any person may apply for exemption from the provisions of this By-Law to the Municipality in writing.
- (2) An application in terms of subsection (1) must state reasons why the exemption is sought.
- (3) The Municipality may, at its sole discretion, grant a temporary exemption in writing from provisions of this By-Law, provided that the Municipality is satisfied that granting the exemption will not significantly prejudice the objectives of this By-Law, and that any exemption is granted subject to conditions that promote the attainment of the objectives of this By-Law where appropriate.
- (4) The Municipality may not grant an exemption under subsection (1) until it has:
  - (a) taken measures to ensure that all persons whose rights may be detrimentally affected by the granting of the exemption, including but not limited to adjacent premises owners or occupiers, are aware of the application for exemption and how to obtain a copy of it;
  - (b) proof that all interested and affected parties were provided with a reasonable opportunity to raise their comments or objections to the application; and
  - (c) duly considered and taken into account any objections raised.
- (5) The Municipality may periodically review any exemptions granted in terms of this section and withdraw any exemption on good cause shown.
- (6) If any condition of an exemption is not complied with, the exemption lapses immediately.

### 74. **Appeals**

Any person whose rights are affected by a decision taken by the Municipality in terms of this By-Law, may appeal against that decision by giving written notice of the appeal and the reasons therefor, in terms of section 62 of the Municipal Systems Act, to the City Manager or delegated official within 21 (twenty-one) days of the date of the notification of the decision.

### 75. **Service of Documents and Process**

Where any notice or other document is required by this By-Law to be served on any person other than for the purpose of criminal proceedings:

- (1) the notice or documents may be served on any person personally, failing which, the notice or documents may be served on any member of his or her household, 16 (sixteen) years or older, who signs for the receipt of such notice at the person's place of residence or business; and
- (2) if sent by registered post to the person's address, constitutes service in terms of section 7 of the Interpretation Act 33 of 1957.

## **CHAPTER 13**

### **OFFENCES AND PENALTIES**

#### **76. Offences**

- (1) A person is guilty of an offence if he or she:
  - (a) contravenes or fails to comply with any provisions of this By-Law; or
  - (b) fails to comply with any notice, directive, issued or condition imposed in terms of or for the purposes of this By-Laws; or
  - (c) fails to comply with any lawful instruction given in terms of or for the purposes of this By-Laws; or
  - (d) obstructs or hinders any authorised official, environmental management inspector or employee of the Municipality in the execution of his or her duties under this By-Laws.
  - (e) is in control of a vehicle, or in a position to control the use of a vehicle, that is used to transport waste for the purpose of offloading that waste, and:
    - (i) fails to take all reasonable steps to prevent spillage of waste or littering from the vehicle;
    - (ii) intentionally or negligently cause spillage or littering from the vehicle;
    - (iii) dispose of waste at a facility which is not authorised to accept such waste;
    - (iv) fails to ensure that waste is disposed of at a facility that is authorised to accept such waste; or
    - (v) fails to comply with any duty set out in terms of these By-laws.
- (2) A person who is found guilty of an offence in terms of subsection (1) above, may upon conviction, be liable to a fine not exceeding R100 000 (One Hundred Thousand Rand) or to imprisonment for a period of three (3) years.

#### **77. Repeal of Laws**

The Ekurhuleni Metropolitan Municipality Solid Waste By-laws, 2002 are hereby repealed.



78. **Short Title and Commencement**

These By-Laws are called the City of Ekurhuleni Integrated Waste Management By-Laws, 2020 and takes effect on the date of publication thereof in the Provincial Gazette or on a commencement date as may be determined by the publication notice in the Provincial Gazette.

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For Office Use

File:	
Council Resolution:	A-EWM (01-2021) dated 25 March 2021
Gauteng Provincial Gazette Number	191- dated 09 June 2021
Local Authority Notice Number	-585