

CITY OF MATLOSANA

WASTE MANAGEMENT BY-LAW

INDEX

	<u>Page No.</u>
Chapter 1	6
1. Definitions and interpretation	6
2. Principles	15
3. Objectives	15
4. Duties and obligations	16
Chapter 2	18
<u>Waste Management</u>	18
Part 1	18
5. Waste management officer	18
Part 2	18

RESOLVED

- a) That cognizance be taken of the Draft Waste Management By-Law as contained on pages CORS2-105 to CORS2-172 in the CORS Agenda dated 13 March 2013.
- b) That the Draft Waste Management by-law become effective on the date of promulgation in the Provincial Gazette in terms of section 13(a) & (b) of the LG: Municipal Systems Act, Act 32 of 2000, if no comments were received in terms of Section 12(3)(b) of the same Act.

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INDEX

	<u>Page No.</u>
Chapter 1	6
1. Definitions and interpretation	6
2. Principles	15
3. Objectives	15
4. Duties and obligations	16
Chapter 2	18
<u>Waste Management</u>	18
Part 1	18
5. Waste management officer	18
Part 2	18

6. Waste management plan	18
<u>Waste Information System</u>	21
Part 3	21
7. Establishment of an information system	21
8. Purpose of the information system	21
9. Provision of information	22
Chapter 3	24
<u>Council services</u>	24
Part 1: Providing access to council services	24
10. Duty to provide access to council services	24
11. The provision of council services	25
Part 2: Using council services	27
12. Obligations of generators of domestic waste, business waste and dailies	27
13. Liability to pay for council services	30
Chapter 4	32
<u>Commercial Services</u>	32
Part 1: Provision of commercial services by licensees and flow control	32
14. Provision of commercial services by licensees	32
15. Provision of council co-ordination of waste disposal	32
Part 2: Business, industrial and recyclable waste	33
16. Storage of business, industrial and recyclable waste	33
17. Collection and disposal of industrial, business and recyclable waste	33
Part 3: Garden waste and bulky waste	34

18. Storage, collection and disposal of garden waste and bulky waste	34
Part 4: Building waste	35
19. Generation of building waste	35
20. Storage of building waste	36
21. Collection and disposal of building waste	36
Part 5: Special industrial, hazardous or health care risk waste	37
22. Generation of special industrial, hazardous or health care risk waste	37
23. Storage of special industrial, hazardous or health care risk waste	37
24. Collection and disposal of special industrial, hazardous or health care risk waste	38
Chapter 5	40
<u>Transportation and disposal of waste</u>	40
25. Transportation of waste	40
26. Waste transfer stations	40
27. Disposal of waste	41
28. Ownership of waste	44
Chapter 6	45
<u>Recycling of waste</u>	45
29. Reduction, re-use, recycling and recovery of waste	45
Chapter 7	46
<u>Listed waste management activities</u>	46
30. Commencements, conduction or undertaking of listed waste management activities	46
Chapter 8	47
<u>Services providers</u>	47

31. Agreement, delegation and consumer charter	47
Chapter 9	48
<u>Licensees</u>	48
32. Licence requirements	48
33. Licence applications	48
34. Suspension and revocation of licences	50
35. Licence terms and conditions	51
36. Renewal of licences	53
37. Display of licences	53
38. Prohibited conduct	54
39. Exemptions	55
40. Transitional provisions	55
Chapter 10	57
<u>Littering and dumping</u>	57
41. Duty to provide facilities for litter	57
42. Prohibition of littering	57
43. Prohibition of dumping	58
Chapter 11	61
<u>Enforcement and legal services</u>	61
44. Compliance with this By-law and other laws	61
45. Authorisation of an authorised official	61
46. Functions and powers of an authorised official	61
47. Service of notices and documents	61
48. Compliance Notices	63
49. Power of entry and inspection	65

50. Using force to enter	65
51. False statement or information	65
52. Offences and penalties	65

CHAPTER 1

1. Definitions and interpretation

In this By-law, unless the context indicates otherwise –

"Approved"	in relation to bins, bin liners, containers, receptacles and wrappers means approved by the Council or service provider for the collection and storage of waste;
"Authorised Official"	means a waste management officer or other person in the employ of the Council, authorised by the Council for the purposes of this By-law, or if the Council has appointed a service provider to perform Council services, an employee of such service provider, authorised by it as an authorised official in terms of this By-law and acting within the scope of the powers, functions and duties assigned to that service provider by the Council in terms of section 81(2) of the Systems Act or another applicable law;
"Bin"	means an approved receptacle for the storage of less than 1,5 cubic metres of waste which may be supplied by the Council or service provider to premises in terms of this By-law;
"Building Waste"	includes all waste produced during the construction,

	alteration, repair or demolition of any structure, and includes building rubble, earth, vegetation and rock displaced during such construction, alteration, repair or demolition;
"Bulky waste"	means business waste or domestic waste which by virtue of its mass, shape, size or quantity is inconvenient to remove in the routine door-to-door council service provided by the Council or service provider;
"Business waste"	means waste, other than hazardous waste, healthcare risk waste, building waste, industrial waste, garden waste, bulky waste and special industrial waste, generated on premises used for non-residential purposes;
"Commercial services"	means any service, excluding council services, relating or connected to accumulating, collecting, managing, recycling, sorting, storing, treating, transporting, disposing, buying or selling of waste or any other manner of handling waste;
"Constitution"	means Constitution of the Republic of South Africa, Act 108 of 1996;
"Container"	means an approved receptacle having a capacity greater than 1,5 cubic metres for the temporary storage of waste in terms of this By-law;
"Council"	means the Council of the City of Matlosana;
"Council services"	means a municipal service relating to the collection of waste, including domestic waste, business waste and dailies, provided exclusively by the council or service providers in accordance with the provisions of the Systems Act and Chapter 8 of this By-law, and which in the case of business waste extends

	only to waste deposited in bin liners, bins and 240 litre wheeled bins;
"Damage to the environment"	means any pollution, degradation or harm to the environment whether visible or not;
"Dailies"	means putrescibles waste generated by hotels, restaurants, food shops, hospitals, and canteens that must be collected on a more frequent basis, normally a daily basis, to prevent the waste from decomposing and presenting a nuisance, environmental or health risk;
"Domestic waste"	means waste generated on premises used solely for residential purposes and purposes of public worship, including halls or other buildings used for religious purposes, but does not include business waste, building waste, garden waste or bulky waste;
"Dump"	means placing waste anywhere other than an approved receptacle or a place designated as a waste handling facility or waste disposal facility by the Council or service provider;
"DWAF"	The National Department of Water Affairs and Forestry;
"Event waste"	means waste that originates from the activities related to an event that is held in the City of Matlosana;
"Firm"	includes any juristic person or any association of persons established or operating in the Republic of South Africa;
"Garden waste"	means waste generated as a result of normal domestic gardening activities, including grass cuttings, leaves, plants, flowers and other similar small and light organic matter, but does not include

	tree branches with a diameter thicker than 40mm at any point of its length, bulky waste, building waste or any waste generated as a result of garden service activities;
"Hazardous waste"	means waste containing or contaminated by poison, a corrosive agent, a flammable substance having an open flash-point of less than 90 deg C, an explosive, radioactive material, a chemical or any other waste that has the potential even in low concentrations to have a significant adverse affect on public health or the environment because of its inherent toxicological, chemical and physical characteristics;
"Health care risk waste"	means all hazardous waste generated at any health care facility such as a hospital, clinic, laboratory, medical research institution, dental or medical practitioner or veterinarian;
"Industrial waste"	means waste generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities, but does not include building waste, business waste, dailies, special industrial waste, hazardous waste, health care risk waste or domestic waste;
"Integrated waste management plan"	means an integrated waste management plan which is required by the Council in terms this By-law or that is required in terms of any other applicable legislation;
"Licensee"	any person who has obtained a licence in terms of Chapter 9 of this By-law;
"Litter"	means any object or matter which is discarded by a person in any place except in an approved receptacle provided for that purpose or at a waste

	handling facility or waste disposal facility;
"Local community"	in relation to the Council means that body of persons comprising – (a) the residents of the Council, (b) the ratepayers of the Council, (c) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the Council, and (d) visitors and other people residing outside of the Council who, because of their presence in the Council, make use of services or facilities provided by the Council;
"NEMWA"	means National Environmental Management: Waste Act 59 of 2008;
"Nuisance"	means any injury, harm, damage, inconvenience or annoyance to any person which is caused in any way whatsoever by the improper handling or management of waste, including but not limited to, the storage, placement, collection, transport or disposal of waste or by littering;
"Occupier"	includes any person in actual occupation of the land or premises without regard to the title under which he occupies, and, in the case of premises let to lodgers or various tenants, includes the person receiving the rent payable by the lodgers or tenants whether for his own account or as an agent for any person entitled thereto or interested therein;
"Owner"	includes any person that has the title to any

	premises or land or any person receiving the rent or profits of any land or premises from any tenant or occupier thereof, or who would receive such rent or profits if such land or premises were let, whether for his own account or as an agent for any person entitled thereto or interested therein: Provided that the "owner" in respect of the premises on the Sectional Title Register opened in terms of section 12 of the Sectional Titles Act, 1986 (Act 95 of 1986), means the body corporate as defined in the Act, in relation to such premises;
"Person"	means a natural person or firm and includes licensees;
"Premises"	an erf or any other portion of land, including any building thereon or any other structure utilised for business, industrial or residential purposes;
"Prescribed fee"	means a fee determined by the Council in terms of the Municipal Systems Act, 2000 (Act 32 of 2000), or any other applicable legislation;
"Public place"	includes any public building, public road, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden, park, enclosed space vested in a council, and any road, place or thoroughfare however created which is in the undisturbed use of the public or which the public has the right to use or the right to access;
"Public road"	any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access and includes –

	(a) the verge of any such road, street or thoroughfare; (b) any bridge, ferry, or drift traversed by any such road, street or thoroughfare; and (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;
"Radioactive material"	any substance consisting of, or containing, any radioactive nuclide, whether natural or artificial;
"Radioactive waste"	any radioactive material which has been separated from the waste stream, and set aside for purposes of re-use, reclamation or recycling;
"Receptacle"	means an approved container for the purpose of temporary storage of domestic waste or business waste until removal thereof by the Council or a service provider;
"Recyclable waste"	means waste which has been separated from the waste stream, and set aside for purposes of re-use reclamation or recycling;
"Service delivery agreement"	an agreement between the Council and a service provider in terms of which the service provider is required to provide council services;
"Service provider"	any person who has entered into a service delivery agreement with the Council in terms of the Systems Act;
"Special industrial waste"	means waste consisting of a liquid, sludge or solid substance, resulting from a manufacturing process, industrial treatment of the pre-treatment for disposal purposes of any industrial or mining liquid waste, which in terms of the Council's drainage or

	sanitation By-laws may not be discharged into a drain or sewer;
"Structures Act"	The Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);
"Systems Act"	The Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);
"Tariff"	the user charge for the provision of council services, determined and promulgated by the Council or adjusted by a service provider in terms of tariff policy by-laws adopted under section 75 of the Systems Act;
"Verge"	means a verge as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996);
"Waste"	means an undesirable or superfluous by-product, emission, residue or remainder of any process or activity, any matter, gaseous, liquid or solid or any combination thereof, which - (a) is discarded by any person; or (b) is accumulated and stored by any person with the purpose of eventually discarding it with or without prior treatment connected with the discarding thereof; or (c) is stored by any person with the purpose of recycling, re-using or extracting a usable product from such matter, excluding – i. water used for industrial purposes or any effluent produced by or resulting from such use which is discharged in compliance with the provisions of section 7(2) of the Water Service Act, 1997 (Act

	108 of 1997); ii. any matter discharged into a septic tank or french drain sewerage system and any water or effluent contemplated by section 7(2) of the Water Services Act, 1997 (Act 108 of 1997); iii. building rubble used for filling or levelling purposes; iv. any radio-active substance discarded in compliance with the provisions of the Nuclear Energy Act, 1999 (Act No. 46 of 1999); v. any minerals or substances produced by or resulting from activities at a mine or works as defined in section 1 of the Minerals and Petroleum Resources Development, 2002, (Act No. 28 of 2002); and vi. ash produced by or resulting from activities at an undertaking for the generation of electricity under the provisions of the Electricity Act, 1987 (Act No. 41 of 1987);
"Waste disposal facility"	any facility or site which receives waste for disposal thereof, and which is operated in terms of a permit obtained from DWAF of any other competent authority or where such a facility is an incinerator, registration or such permission as is required by law, and includes garden waste handling facilities;
"Waste generator"	any person or firm that generates or produces waste;

"Waste Management Officer"	means a waste management officer designated in terms of section 10 of NEMWA;
"Waste transfer station"	means a facility that is used to accumulate and temporarily store waste before it is transported to a recycling, treatment or waste disposal facility;
"Wrapper"	means a plastic or other suitable or approved material covering the totally encloses bales or slugs of compacted waste;

2. Principles

- (1) The Council has the responsibility to ensure that all waste generated within the municipal area is—
 - (a) collected, disposed of or recovered in accordance with this By-law; and
 - (b) such collection, disposal or recovery takes account of the waste management hierarchy outlined in subsection (2).
- (2) The principle underpinning this By-law is the establishment of a waste management hierarchy in the following order of priority—
 - (a) avoidance, minimisation and reduction of waste;
 - (b) re-use of waste;
 - (c) recycling, re-claiming, reprocessing and treatment of waste; and
 - (d) disposal of waste.
- (3) An official authorised in terms of this By-law must as is reasonably possible, take the hierarchy specified in subsection (2) into account.

3. Objectives

(1) The main objectives of this By-law are—

- (a) To give effect to the right obtained in section 24 of the Constitution by regulating waste management within the area of the Council's jurisdiction;
- (b) to regulate the collection, handling, storage, transport, recycling, treatment and disposal of waste;
- (c) to regulate the pursuance of an integrated waste management approach;
- (d) to regulate the provision of council services by a service provider and commercial services by licensees; and
- (e) to enhance sustainable development.

(2) In pursuing the main objectives of this By-law, the Council shall—

- (a) endeavour to ensure local community involvement in local waste planning;
- (b) endeavour to minimise the consumption of natural resources;
- (c) promote the recycling and re-use of waste;
- (d) encourage waste separation to facilitate re-use and recycling;
- (e) promote the effective resourcing, planning and delivery of council services and commercial services;
- (f) endeavour to achieve integrated waste management, planning and services in a local context;
- (g) promote and ensure environmentally responsible council services and commercial services; and
- (h) endeavour to ensure compliance with the provisions of this By-law.

4. Duties and obligations

(1) A waste generator must take all reasonable measures to:

- (a) reduce or avoid waste generation and minimise the toxicity of waste generated;

- (b) re-use, recycle and recover waste;
 - (c) dispose waste in an environmentally sound manner;
 - (d) manage waste in a manner not endangering health or the environment and cause no nuisance related to sight, noise or odour;
 - (e) prevent waste from being used for an unauthorised purpose including the prevention of persons under his supervision from contravening this By-law;
- (2) A person who sells a product which may be used by the public and is likely to result in the generation of hazardous waste must take all reasonable steps to inform the public of the impact of that waste on health and the environment.
- (3) Any person subject to the duties and obligations imposed in subsections (1) and (2) may be required by the Council or an authorised official to take measures to ensure compliance with these duties and obligations, which measures may be to—
- (a) investigate, assess and evaluate the impact on the environment;
 - (b) inform and educate employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing significant pollution or degradation of the environment;
 - (c) cease, modify or control any act, activity or process causing the damage to the environment;
 - (d) contain or prevent the movement of pollutants or other causes of damage to the environment;
 - (e) eliminate or mitigate any source of damage to the environment;
 - (f) remedy the effects of the damage to the environment.

CHAPTER 2

Waste Management

PART 1

5. Waste management officer

- (1) The Council must designate in writing a waste management officer;
- (2) The waste management officer shall be responsible for regulating, controlling, managing and enforcing the provisions of this By-law and National and Provincial Legislation relating to waste management;
- (3) The waste management officer shall be entitled to delegate to any other official of the Council any of his or her powers or obligations in terms of this By-law.

PART 2

6. Waste management plan

- (1) The Council must
 - (a) prepare an integrated waste management plan in accordance with the prescriptions of National and Provincial legislation;
 - (b) submit its integrated waste management plan to the MEC for approval; and
 - (c) include the approved integrated waste management plan in its integrated development plan contemplated in Chapter 5 of the Municipal Systems Act.

(2) The waste generators of the following classes of waste must submit an integrated waste management plan in writing to the waste management officer for approval prior to the generation of the waste to be dealt with in terms of the said plan:

- (a) business waste;
- (b) industrial waste;
- (c) building waste;
- (d) event waste;
- (e) hazardous waste;
- (f) those who sort waste or undertake a recycling, re-use or waste recovery activity including but not limited to scrap dealers, recycling groups and buyback centres;
- (g) any other person who is giving notice to do so by the waste management officer.

(3) An integrated waste management plan must include:

- (a) an assessment of the quantity and type of waste that will be generated;
- (b) a description of the services required to store, collect, transport and dispose of such waste;
- (c) a description of how they intent separating recyclable and non-recyclable material at the point of source;
- (d) the waste minimization and pollution prevention plans of such waste generator;
- (e) the impact or potential impact on the environment of the waste created by them;
- (f) the type or characteristics of waste produced of an environmentally sensitive nature or the amount of natural resources that are consumed in the manufacturing or production process that result in waste;

- (g) targets for waste productions through waste minimization, re-use, recycling and recover measures or programmes of the minimized consumption of natural resources and the method of disposal of waste.
- (4) Industrial entities must include in an integrated waste management plan, measures or actions to be taken to manage waste, the phasing out of the use of certain substances, opportunities for reduction of waste generation through changes to product design, product production or packaging to reduce resource consumption.
- (5) Industrial and business entities must provide for the education, marketing and sales information to influence the perception and behaviour of customers to ensure recycling of products.
- (6) When requested to submit an integrated waste management plan or a further integrated waste management plan in terms of this By-law, a waste generator shall do so in the time stipulated and comply with the terms and conditions set out by the waste management officer for the generation, minimization, storage, collection and disposal of such waste.
- (7) The waste management officer must consider the plan and
 - (a) approve it with conditions and give directions for the implementation thereof;
 - (b) request that additional information be furnished or a revised plan be submitted for approval;
 - (c) require amendments to be made within a time frame specified by them;
 - (d) reject the plan and provide reasons therefor;
 - (e) approve such a plan and specify conditions pertaining to such approval.

- (8) If an integrated waste management plan is rejected or not submitted at all, the waste management officer shall give directives as to what waste management measures must be taken by the waste generator and should the waste generator failed to take such measures within the time frame specified by the waste management officer, the Council may implement such measures and the waste generator will be liable for the costs thereof.
- (9) If one of the waste generators for the categories of waste refer to in section (2) above wishes to be exempt for submitting a waste management plan, an application must be made inviting to the waste management officer, stipulating reasons for the application.

Waste Information System

PART 3

7. Establishment of an information system

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

8. Purpose of the information system

- (1) The purpose of the information system referred to in section 7, is for the Council to –
- (a) record data relating to the implementation of the integrated waste management plan and the management of waste in the municipal area;
 - (b) record information held by the Council in relation to any of the matters referred to in section 9(1);
 - (c) furnish information upon request or as required by law to the provincial or national government;
 - (d) gather information and undertake strategic planning regarding to potential and actual waste generators, service providers and licensees;
 - (e) provide information to waste generators, service providers, licensees and the local community in order to –
 - i. facilitate monitoring of the performance of the Council, service providers and licensees, and, where applicable, waste generators;
 - ii. stimulate research; and
 - iii. assist the Council to achieve the main objectives of this By-law specified in section 3; and
 - (f) keep a register of waste management activities that have been licensed in terms of NEMWA, the holders of such licenses and the locations where the licensed waste management activities are/or may be conducted.

9. Provision of information

- (1) The Council may, subject to the provisions of any other law including the common law, require any waste generator, licensee, service provider or person involved in or associated with the provisions of the council service or any commercial service within the municipal are to furnish information to the Council which may be reasonably be required for the information system, and which may concern –
- (a) significant sources of waste generation and the identification of the waste generators;
 - (b) quantities and classes of waste generated;
 - (c) management of waste by waste generators;
 - (d) waste handling, waste treatment and waste disposal facilities;
 - (e) population and development profiles;
 - (f) reports on progress in achieving waste management targets;
 - (g) the management of radioactive waste;
 - (h) any information which has been compiled in accordance with section 35(2)(e);
 - (i) markets for waste by class of waste or category; and
 - (j) any other information required by legislation, regulations or guidelines.
- (2) The Council may determine when and how often information must be furnished.

CHAPTER 3

Council Services

PART 1: Providing access to council services

10. Duty to provide access to council services

- (1) The Council has a duty to the local community to progressively ensure efficient, affordable, economical and sustainable access to council services.
- (2) This duty referred to in subsection (1) is subject to –
 - (a) the obligation of the local community to pay the prescribed fee, for the provision of council services, which must be in accordance with any nationally prescribed norms and standards for rates and tariffs; and
 - (b) the right of the Council to differentiate between categories of users and geographical areas when setting service standards and levels of service for the provision of council services. In exercising the right in this subsection, the Council must comply with national legislation and have regard to the factors set out in subsection (3).
- (3) The Council must take the following factors into account in ensuring access to council services:

- (a) the waste management hierarchy set out in section 2;
- (b) the need to use resources efficiently;
- (c) the need for affordability;
- (d) the requirements of operational efficiency;
- (e) the requirements of equity; and
- (f) the need to protect human health and the environment.

11. The provision of council services

- (1) The Council must as far as reasonable possible and subject to the provisions of this By-law –

- (a) provide for the collection of domestic waste, business waste and dailies on a regular basis, which in the case of dailies requires collection on a daily basis; and
- (b) provide recycling facilities,

at a cost to end users determined in accordance with the prescribed fee promulgated by the Council

- (2) In relation to council services, the Council may determine –

- (a) the quantities of waste that will be collected;

- (b) which residential or commercial premises require council services more frequently than the regular collection service for reasons of health, safety and environmental protection;
 - (c) the maximum amount of waste that may be placed for collection without the provision of an additional service or the imposition of an additional tariff; and
 - (d) specify requirements for the provision of waste storage areas and access to such areas in respect of new premises which are constructed after the commencement of this By-law.
- (3) The Council may provide, or require the generator of the waste to provide, an approved receptacle for the storage of domestic waste, business waste and dailies pending collection. Where such receptacle is provided by the Council, it remains the property of the Council.
- (4) In providing council services, the Council or service provider may determine or designate –
 - (a) collection schedules;
 - (b) locations for placing approved receptacles for collection;
 - (c) which types of waste generated by the occupier of any premises are recyclable waste and determine the conditions for their storage or collection; and
 - (d) which waste items are unsuitable for collection.
- (5) The Council or service provider may require a generator of dailies and business waste to compact that portion of the waste that is compactable. Such a requirement may be imposed where the quantity of dailies or business waste generated on premises requires daily removal of more

than the equivalent of eight 240-litre bins and where, in the opinion of the Council or service provider, the major portion of such waste is compactable. The occupier of premises may elect to compact any volume of such waste and place it into an approved receptacle or wrapper approved by the Council or service provider: Provided that –

- (a) the capacity of the wrapper must not exceed 85 litres and the mass of the wrapper and contents must not exceed 35 kilograms;
 - (b) after the waste has been compacted and put into the wrapper, it must be placed in the approved receptacle and must be stored so as to prevent damage to the wrapper or any nuisance arising until collected; and
- (6) Any approved receptacle used in terms of subsection (5) may be collected, emptied and returned to the premises by the Council or service provider at such intervals as it may deem necessary.
- (7) The Council or service provider may review any decisions taken in terms of subsection (4) at any time.
- (8) The Council or service provider must in writing notify all generators of domestic waste, business waste and dairies of any decisions taken in terms of subsection (2) or (3) relating to his or her premises.
- (9) Non-receipt of a notice contemplated in subsection (8), does not affect the application or any provision by neither this By-law nor the liability to pay any prescribed fee provided for in this By-law.

PART 2: Using council service

12. Obligations of generators of domestic waste, business waste and dailies

- (1) Any person generating domestic waste, business waste and dailies, other than waste which has been designated by the Council as recyclable as contemplated in section 11(4)(c) must place such waste in an approved receptacle.
- (2) No person may allow an animal in his control to interfere with, overturn or damage a receptacle, which has been placed for collection.
- (3) The occupier of premises must ensure that –
 - (a) no hot ash, unwrapped glass or other domestic waste, business waste or dailies which may cause damage to approved receptacles or which may cause injury to the Council's employees while carrying out their duties in terms of this By-law, is placed in approved receptacles before suitable steps have been taken to avoid such damage or injury;
 - (b) no material, including any liquid, which by reason of its mass or other characteristics is likely to render an approved receptacles unreasonably difficult for employees of the Council or service provider to handle or carry, is placed in such receptacles;
 - (c) every approved receptacle on the premises is kept closed save when waste is being deposited in it or discharged from it, and every approved receptacle is kept in a clean and hygienic condition;
 - (d) no approved receptacle delivered by the Council is used for any purpose other than the storage of domestic waste, business waste and dailies and, in particular, that no fire is lit in such receptacle;

- (e) an approved receptacle is placed outside the entrance to the premises before a time and on a day of the week specified by the Council or service provider by written notice to the owner or occupier of the premises, except where, on written application to the Council, the Council has indicated in writing that it is satisfied that a person is physically infirm or otherwise incapable of complying with the notice;
 - (f) an approved receptacle, placed in accordance with paragraph (e) is not damaged and properly closed so as to prevent the dispersal of its contents; and
 - (g) dailies are not placed in a receptacle or compactor where they are able to contaminate another waste stream.
- (4) The owner or occupier of premises must provide space and any other facilities considered necessary by the Council or service provider on the premises for the storage of approved receptacles.
- (5) The space provided in terms of subsection (4) must –
 - (a) be in such a position on the premises as will allow the storage of approved receptacles without their being visible from a street or public place;
 - (b) if dailies are generated on premises –
 - (i) be in a position which will allow the collection and removal of that waste by the Council's employees or service provider's employees without hindrance; and
 - (ii) not be more than 20m from the entrance to the premises used for the collection of waste by the Council or service provider;

- (c) be so located as to permit convenient access to and egress from such space for the Council or service provider's waste collection vehicles;
 - (d) comply with any further reasonable requirements imposed by the Council or service provider by written notice to the owner or occupier of the premises; and
 - (e) be constructed in accordance with the requirements of any applicable legislation relating to buildings.
- (6) The occupier of premises must place or cause the approved receptacles to be placed in the space provided in terms of subsection (4) and must at all times keep them there.
- (7) Notwithstanding the provisions of subsection (6) -
- (a) in the case of buildings erected, or a building, the building plans of which have been approved, prior to the commencement of this By-law, or
 - (b) in the event of the Council or service provider being unable to collect and remove waste from the space provided in terms of subsection (4);

the Council or service provider may, having regard to the avoidance of nuisance and the convenience of collection of waste, indicate a position within or outside the premises concerned where approved receptacles must be placed for the collection and removal of such waste and such receptacles must then be placed in such position at such times and for such period as the Council or service provider may require.

13. Liability to pay for council service

- (1) The owner of premises is liable to pay to the Council the prescribed fee for the provision of the council service, and is not entitled to exemption from, or reduction of the amount of such fee by reason of not making use, or of making a partial or limited use, of the council services.
- (2)
 - (a) The prescribed fee becomes due and payable on the due date for payment as stipulated in the account.
 - (b) Non-receipt of an account does not relieve the person concerned of the liability to pay a prescribed fee before or on the due date.
- (3) The Council reserves the right to review such tariffs contemplated in subsection (1) on an annual basis.
- (4) The Council may exempt any person or category of persons deemed to be falling in the indigent category from paying prescribed tariffs for council services as outlined in the Indigent Policy of the Council.

CHAPTER 4

Commercial Services

PART 1: Provision of commercial services by licensees and flow control

14. Provision of commercial services by licensees

- (1) Except in the case of garden waste, only a licensee may provide a commercial service.
- (2) Any person requiring a commercial service must satisfy himself that the contractor is licensed to collect and dispose of the category of waste that has been generated, and must take reasonable steps to ensure that the relevant waste is collected and disposed of in terms of this By-law.

15. Provision for Council co-ordination of waste disposal

- (1) The Council may by a notice published in the North West Provincial Gazette, direct that a category of waste be disposed of at a particular waste disposal facility or waste handling facility.
- (2) No person may dispose of a category of waste at a waste disposal facility or waste handling facility which is not designated for receipt of that category of waste in a notice in terms of subsection (1) or designated by the Council under other empowering legislation prior to the commencement of this By-law.

PART 2: Business, industrial and recyclable waste

16. Storage of business, industrial and recyclable waste

- (1) The owner or occupier of premises on which business, industrial or recyclable waste is generated, must ensure that until such time as such waste is collected by a licensee from the premises on which it was generated –
 - (a) the waste is stored in a bulk container or other approved receptacle;
and
 - (b) no nuisance or health risk, including but not limited to dust, is caused by the waste in the course of generation, storage or collection.

17. Collection and disposal of industrial, business and recyclable waste

- (1) The owner or occupier of premises generating business, industrial or recyclable waste must ensure that-
 - (a) the container in which the waste is stored, is not kept in a public place except when so required for collection;
 - (b) the waste is collected by a licensee within a reasonable time after the generation thereof; and
 - (c) that the service rendered by the licensee is only in respect of that

portion of the business, industrial or recyclable waste authorised in the licence concerned.

- (2) A licensee must dispose of business, industrial and recyclable waste at an appropriately permitted waste handling facility or waste disposal facility in compliance with the provisions of section 15(2) and 27.

PART 3: Garden waste and bulky waste

18. Storage, collection and disposal of garden waste and bulky waste

- (1) The owner or occupier of premises on which garden waste is generated may compost garden waste on the property, provided such composting does not cause a nuisance or health risk.
- (2) The occupier of the premises on which garden waste is generated and not composted or on which bulky waste is generated must ensure that such waste is collected and disposed within a reasonable time after the generation thereof.
- (3) Any person or licensee may remove garden waste and bulky waste, provided once such waste has been collected from the premises on which it was generated, it is deposited at a garden waste handling facility in accordance with the provisions of section 27.
- (4) (a) At the written request of the occupier of premises, the Council may deliver an approved receptacle to the premises for the purpose of storing garden waste in addition to any approved receptacle delivered to the premises for the storage of domestic waste.

- (b) The provisions of section 12, read with the necessary changes, apply to an approved receptacle delivered in terms of paragraph (a).
- (5) If, in the course of providing the council service, the Council is of the opinion that it would cause inconvenience to members of the public not, at the same time, to remove garden and bulky waste, the Council may remove such waste if such waste has been placed in an approved receptacle in the space designated for domestic waste, in which event the prescribed fee for domestic waste, read with the necessary changes, applies.

PART 4: Building waste

19. Generation of building waste

- (1) The owner or occupier of premises on which building waste is generated, must ensure that –
 - (a) until disposal, all building waste, together with the containers used for the storage, collection or disposal thereof, is kept on the premises on which the waste was generated;
 - (b) the premises on which the building waste is generated, does not become unsightly or cause a nuisance as a result of accumulated building waste;
 - (c) any building waste which is blown off the premises, is promptly retrieved; and
 - (d) pursuant to any instruction from the Council, any structure necessary to contain the building waste is constructed.

20. Storage of building waste

- (1) The Council may, subject to the provisions of subsection (2), determine conditions to place a receptacle for the storage and removal of building waste on a verge.
- (2) Every receptacle used for the storage and removal of building waste must –
 - (a) have clearly marked on it the name, address and telephone number of the person in control of that receptacle;
 - (b) be fitted with reflecting chevrons or reflectors which must completely outline the front and the back thereof; and
 - (c) be covered at all times other than when actually receiving, or being emptied of, waste so that no displacement of its contents can occur.

21. Collection and disposal of building waste

- (1) The owner or occupier of premises on which building waste is generated, must ensure that the waste is disposed of by a licensee.
- (2) All building waste must be disposed at a waste disposal facility designated for that purpose by the Council in terms of section 15, unless the Council has given written consent for the building waste to be used for the purpose of land reclamation or for recycling.
- (3) A consent given in terms of subsection (2) shall be subject to the

conditions as the Council may deem necessary.

PART 5: Special industrial, hazardous or health care risk waste

22. Generation of special industrial, hazardous or health care risk waste

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

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

- (1) Any person carrying on an activity which generates special industrial,

hazardous or health care risk waste, must ensure that such waste generated on the premises is kept and stored thereon until it is collected from the premises.

- (2) Special industrial, hazardous or health care risk waste stored on premises, must be stored in such a manner that it does not become a nuisance or causes harm to human health or damage to the environment, and in accordance with the requirements of any applicable legislation relating to buildings.
- (3) Special industrial, hazardous or health care risk waste must be stored in an approved receptacle and for a period not exceeding 90 days or any other maximum period stipulated by the Department of Water and Environmental Affairs, North West provincial government or Council, before collection.

24. Collection and disposal of special industrial, hazardous or health care risk waste

- (1) Only a licensee may transport special industrial, hazardous and health care risk waste and must do so in accordance with the requirements of the conditions of the licence issued to him or her under Chapter 9 as well as in the relevant SANS codes, in respect of the type of vehicle, the markings and manner of construction of such vehicle, procedures for safety and cleanliness, and documentation relating to the source, transportation and disposal of such waste, and subject to the requirements of any other legislation.
- (2) A licensee licensed to collect and dispose of special industrial, hazardous or health care risk waste, must inform the Council at intervals stipulated in

the licence issued under Chapter 9, of each removal of special industrial, hazardous or health care risk waste, the date of such removal, the quantity, the composition of the waste removed and the waste disposal facility at which the waste has been disposed of.

- (3) A licensee must dispose of special industrial, hazardous or health care risk waste at a waste disposal facility designated by the Council as a waste disposal facility and in accordance with the provisions of section 27.

Transportation and Disposal of Waste

25. Transportation of waste

(1) No person may-

- (a) operate a vehicle for the conveyance of waste upon a public road unless the vehicle has a body of adequate size and construction for the type of waste being transported;
- (b) fail to maintain a vehicle used for the conveyance of waste in a clean, sanitary and roadworthy condition at all times;
- (c) fail to cover loose waste on an open vehicle with a tarpaulin or suitable net; and
- (d) cause or permit any waste being transported in or through the municipal area to become detached, leak or fall from a vehicle transporting it, except at a waste disposal facility.
- (e) Knowingly dispose waste at a waste transfer station, recycling facility and/or waste disposal facility that is not permitted to accept such waste.

(2) Subject to the provisions of subsection (1), all transportation of waste must comply with the National Road Traffic Act, 1996 (Act No. 93 of 1996).

26. Waste transfer stations

- (1) Any waste generator must –
 - (a) utilize appropriate waste transfer stations as directed by the Council or service provider; and
 - (b) adhere to the operational procedures of a transfer station as set out by the Council.

27. Disposal of waste

- (1) (a) Waste generated in the municipal area must be disposed of at a waste disposal facility where such disposal is permitted by the Council.
- (b) In disposing of waste, a licensee must comply with the provisions of section 15(2) and with the provisions of any other law regulating the disposal of waste.
- (2) No person may burn waste either in a public or private place, for the purpose of disposing of that waste.
- (3) No person may incinerate waste either in a public or private place, except in an incinerator at a place where the relevant national or North West provincial authorities permit such incineration, or at a place designated by the Council for that purpose.
- (4) Notwithstanding the provisions of subsection (1), a person may dispose of

those forms of recyclable waste specified by the Council in a notice in terms of section 15 at a designated garden waste handling facility, but may do so only if all such waste is brought to the facility in a vehicle able to carry a maximum load of one tonne or less.

- (5) The disposal of waste at any waste disposal facility is, in addition to any condition imposed by the National Department of Water Affairs and Forestry, subject to such conditions as the Council may impose, including the hours of opening and closing, the nature of the waste which may be disposed of, the position in any such waste disposal facility in which the waste may be placed and any other matter which the Council considers necessary to ensure the environmentally sound management of waste.

- (6) Every person who enters a waste disposal facility must –

- (a) enter a waste disposal facility at an access point determined by the person in charge of the waste disposal facility;
 - (b) at the request of the person in charge of a waste disposal facility, provide the Council or that person with any information regarding the composition of the waste disposed of or to be disposed of;
 - (c) comply with any instruction by the person in charge of a waste disposal facility in regard to access to, the actual place where, and the manner in which, waste must be deposited; and
 - (d) adhere to the operational procedures of the waste disposal facility, as approved by the Council.

- (7) No person may-

- (a) bring any liquor or intoxicating or narcotic substance onto a waste

disposal facility or enter such facility under the influence of liquor or such substance;

- (b) enter a waste disposal facility for any purpose other than the disposal of waste in terms of this By-law, unless authorised to do so by the person in charge of the waste disposal facility or the Council and then only at such times and subject to such conditions as the Council or such person may impose;
 - (c) dispose of waste at a waste disposal facility where the disposal of the waste concerned is not permitted; or
 - (d) light a fire on a waste disposal facility without the prior written consent of the person in charge of that facility.
- (8) Any person who contravenes subsection (7)(c) is liable for all costs reasonably incurred by the Council in removing or otherwise dealing with the waste concerned.
- (9) The person in charge of a waste disposal facility may at any time require a vehicle or a container on a vehicle brought into the waste disposal facility for the purposes of disposing of waste, to be weighed at a weighbridge.
- (10) The person in charge of a waste disposal facility or an authorised official may, at a waste disposal facility, inspect the content and nature of waste to be disposed of or processed and may take samples and test any waste found on any vehicle to ascertain its composition.
- (11) Any person contravening any preceding provision of this section commits an offence and may be refused entry or instructed by the person in charge to leave a waste disposal facility and if such person fails or refuses to comply with such instruction, he or she may be removed from such facility by a member of the Matlosana Police Department.

28. Ownership of waste

- (1) Waste dumped at a waste transfer station, recycling facility and/or waste disposal facility, becomes the property of the Council and no person who is not duly authorised by the Council to do so may remove or interfere with such waste;
- (2) A person who contravenes subsection (1) commits an offence.

CHAPTER 6

Recycling of Waste

29. Reduction, re-use, recycling and recovery of waste

- (1) Any person who is undertaking any activity involving reduction, re-use, recycling or recovery of waste including scrap dealers, by-back centres and formalised recycling groups must before undertaking that activity, make sure that the activity is less harmful to the environment than the disposal of such waste and must notify the Council of an intention to undertake such an activity in writing.
- (2) Any person undertaking the activities as contemplated in subsection (1) must adhere to the requirements set out in National or North West Provincial legislation.
- (3) The Council may require any person or owner of property to separate their waste and use different receptacles provided by the Council or service provider.
- (4) Where the Council or service provider has provide separate receptacles for recyclable materials, no person may use other receptacles for recyclable material.

CHAPTER 7

Listed Waste Management Activities

30. **Commencements, conducting or undertaking of listed waste management activities**

- (1) Any person conducting a listed waste management activity listed in terms of section 19 of NEMWA, must upon request by an official of the Council, provide proof of compliance with the requirements of a licence issued by the competent authority.
- (2) Any person conducting or intending to conduct any activity contemplated in subsection (1) must, at least 60 days before commencement, conducting or undertaking of such activity, inform the Council's waste management officer in writing of such intention.

CHAPTER 8

Service Providers

31. Agreement, delegation and consumer charter

- (1) The Council may discharge any of its obligations under section 11 of this By-law by entering into a service delivery agreement with a service provider or service providers in terms of the Systems Act.
- (2) Subject to the provisions of the Systems Act or any other legislation, the Council may assign to a service provider any power enjoyed by the Council under this By-law: Provided that the assignment is required for the service provider to discharge an obligation under its service delivery agreement.
- (3) Any reference in this By-law to "Council or service provider" should be read as the "Council" if the Council has not entered into a service delivery agreement, and should be read as "service provider" if the Council has entered into a service agreement.
- (4) Service providers must provide services in accordance with a consumer charter which must be drawn up in consultation with the Council and which must –
 - (a) accord with the provisions of this By-law;
 - (b) be accessible to the public;
 - (c) establish the conditions of the service including collection times; and
 - (d) provide for the circumstance in which council services may be limited.

CHAPTER 9

Licensees

32. Licence requirements

- (1) Subject to the provisions of section 40, no person may provide commercial services for the collection and transport of waste in the municipal area unless such person has registered with the Council and obtained a license authorising these waste management services within the municipal area.
- (2) A licence issued under this Chapter –
 - (a) is incapable of cession or assignment without the prior written consent of the Council;
 - (b) is valid only for the category of waste specified therein; and
 - (c) expires one year after the date of issue subject to the provisions of sections 36(4) and 40(2).

33. Licence applications

- (1) An application for a licence to provide a commercial service must be
 - (a) made in writing on a form prescribed by the Council and accompanied by the documentation specified in that form; and

- (b) accompanied by the prescribed fee.
- (2) The Council must consider each application, having regard to the following:
- (a) The applicant's compliance, where relevant, with the National Road Traffic Act, 1996, and with this By-law;
 - (b) the environmental, health and safety record of the applicant;
 - (c) the nature of the commercial service to be provided;
 - (d) the financial technical and managerial competency and experience of the applicant; and
 - (e) any other factors which the Council considers relevant.
- (3) Before considering an application made in terms of subsection (1), the Council may require the applicant to furnish such information as it may require.
- (4) After considering the application in terms of subsection (2), the Council must either—
- (a) approve the application by issuing a licence subject to any condition it may impose; or
 - (b) reject the application, which rejection must be accompanied by reasons.
- (5) If the Council fails to consider and grant or reject a licence application within 60 days of its receipt of the application, it must inform the applicant in writing that the period for consideration is extended and must inform the

applicant of the date by which a decision will be made.

34. Suspension and revocation of licences

(1) A licence issued under this Chapter may be suspended or revoked by the Council on the grounds that the licensee—

- (a) has failed to comply with any provision of this By-law;
- (b) has failed to comply with any provision of any National or North West Provincial legislation which regulates the collection, transportation or disposal of waste;
- (c) has failed to comply with any licence condition contemplated in section 33(4)(a); or
- (d) on any other ground which the Council considers relevant, which is fair and reasonable in the circumstances.

(2) A licence may only be suspended or revoked after –

- (a) the licensee has been given written notice that the Council is considering the suspension or revocation of the licence; and
- (b) after the licensee has been given a period of 30 days after service of the notice to make representations to the Council as to why the licence should not be suspended or revoked.

(3) The Council must –

- (a) make a decision within 14 days of receipt of the representations

contemplated in subsection (2)(b), if any, or within 14 days after the licensee informed the Council that he or she does not wish to make representations, or if no representations are received, within 14 days of the expiry of the period referred to in subsection (2)(b); and

(b) inform the licensee of its decision in writing within 7 days of making it.

(4) Subject to the provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), the Council may not disclose any confidential commercial information submitted as part of a licence application procedure to any person other than a Council official requiring such information to perform his functions for the purposes of this By-law.

35. Licence terms and conditions

(1) When issuing a licence under this Chapter, the Council may, subject to the provisions of subsection (2), impose any reasonably necessary condition in furthering National, North West Provincial or Council, waste management policy.

(2) Any licence issued by the Council under this Chapter must–

- (a) describe the geographical area of operation of the licensee;
- (b) specify the licence period contemplated in section 32(2)(c) and the procedure for renewal of the licence;
- (c) specify every category of waste which the licensee may collect and transport;
- (d) contain a requirement that the licensee must comply with, and ensure compliance by his or her employees, agents and sub-

contractors, with this By-law and applicable National and North West Provincial legislation; and

- (e) require the licensee to keep monthly written records on a form prescribed by the Council in respect of –
 - (i) the quantities of each category of waste collected and transported during the licence period;
 - (ii) the quantities of waste received, the location of the sources generating the waste, the identity of the generator and, where the licensee manages different categories of waste, the quantity of each category managed;
 - (iii) emission levels where the license holder manages a licensed incinerator;
 - (iv) any activity related to the achievement of local, provincial or national targets where such targets have been determined, and must include the results of monitoring such activity;
 - (v) any waste minimisation or recycling activities in which the licensee is involved;
 - (vi) consumer supply figures; and
 - (vii) complaints received by the public.
- (f) require the licensee to take reasonable steps to prevent his employees, agents and sub-contractors from committing any act or omission in the course of their employment that may cause harm to humans or damage to the environment;
- (g) require the licensee to have appropriate property and liability insurance for any waste disposal or handling facilities owned by it in accordance with an insurance programme approved by the Council under the licence, which approval may not subject the Council to any

liability if the insurance programme proves inadequate;

- (h) stipulate procedures for amendment of the licence;
- (i) stipulate circumstances under which the licence may be revoked or suspended by the Council and set out an appeal procedure;
- (j) prescribe the payment of a licence fee; and
- (k) contain any other term or condition that the Council considers relevant.

36. Renewal of licences

- (1) A licensee who wishes to renew his or her licence must apply to renew the licence concerned at least 90 days prior to the expiry of the existing licence.
- (2) The Council must consider and grant or reject a licence renewal application within 60 days of the receipt of the application subject to the provisions of section 33(3) and in accordance with section 33(4).
- (3) If the Council fails to consider and grant or reject a licence renewal application within 60 days, it must inform the applicant in writing that the period for consideration is extended and must inform the applicant of the date by which a decision will be made.
- (4) A licence in respect of which application for renewal has been made in terms of subsection (1), remains valid until a final decision has been made in respect of that application.

37. Display of licences

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

38. Prohibited conduct

- (1) No licensee may –
 - (a) operate in contravention of any condition of the licence concerned;
 - (b) fail or refuse to give information, when required to do so in terms of this By-law, or give false or misleading information;
 - (c) fail to take all reasonable steps to prevent a contravention of this By-law, by any act or an omission of his or her employee acting in the course and scope of his or her duties;
 - (d) collect or transport any waste except in a properly constructed,

watertight vehicle or in a suitable container that prevents spillage of waste, the suitability of the vehicle to be dependant on the waste stream contemplated in section 32(1), to be collected or transported, as specified in the National Road Traffic Act, 1996;

- (e) cease operation at a waste disposal facility without a closure plan approved by DWAF and the Department of Environmental Affairs and Tourism or any other competent authority;
- (f) abandon a waste disposal facility or waste handling facility; or
- (g) dispose of hazardous or special industrial waste otherwise than by disposing of it at a waste disposal facility which has been permitted for the disposal of this category of waste.

39. Exemptions

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

40. Transitional provisions

- (1) Any person who is at the commencement of this By-law lawfully providing a commercial service for which a licence is required under this Chapter, must within 90 days of such commencement, make application for a licence in terms of section 33, failing which such person's right to provide such service lapses.
- (2) If an application is submitted in terms of subsection (1), the applicant may

continue to provide the commercial service in respect of which the application has been made until a final decision has been taken in respect of that application.

CHAPTER 10

Littering and Dumping

41. Duty to provide facilities for litter

- (1) It is the duty of Council, or owner of privately owned land, to ensure that the sufficient number of approved receptacles is provided for the discarding of litter by the public, on any premises to which the public has access.
- (2) The Council, or owner of privately owned land, must ensure that every receptacle provided in subsection (1), is –
 - (a) emptied and cleansed periodically to ensure that no receptacle or its contents become a nuisance;
 - (b) constructed in such a manner as to ensure that it is weatherproof and animal proof.
 - (c) suitably anchored so that it cannot be inadvertently overturned;
 - (d) of a suitable size so that the receptacles on the premises are capable of containing all litter likely to be generated on the premises;
 - (e) placed in a location convenient for the use by users and occupants of the premises to discourage littering or the accumulation of waste; and
 - (f) maintained in good condition.

42. 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 the contents of the receptacle to spill or fall onto the ground around it; and
 - (d) allow any person under his control to do any of the acts contemplated in paragraphs (a), (b) or (c) above.
- (2) Notwithstanding the provisions of subsection (1), the Council, or owner of privately owned land to which the public has access, must within a reasonable time after any litter has been discarded, dumped or left behind, remove such litter or cause it to be removed.
- (3) A person who contravenes a provision of this section commits an offence.

43. Prohibition of dumping

- (1) No person may –
 - (a) except with the permission of the owner or of the person or authority having control thereof dump, accumulate, place, deposit, leave or cause or allow to be dumped, accumulated, placed, deposited or left any waste whatsoever, whether for gain or otherwise, on or in –
 - (i) a public road;
 - (ii) a public place;

(iii) any drain, watercourse, flood prone areas, tidal or other waster in or abutting on any such road, highway, street, lane, public footway, or pavement, roadside or other open space to which the public have access; or

(iv) private or municipal land.

(2) Should a person perform any of the acts referred to in subsection (1), the Council may by written notice require –

(a) the person directly or indirectly responsible for dumping, accumulating, placing, depositing, or leaving the waste;

(b) the owner of the waste, whether or not he is responsible for dumping, accumulating, placing, depositing, or leaving the waste; or

(c) the owner of the property on which the waste was dumped, accumulated, placed, deposited, or left, whether or not he or she is responsible therefore;

to remove the waste within the period stated in the notice.

(3) If a person fails to comply with the requirements of a written notice, the Council may dispose of, destroy or remove the waste and may recover the cost of doing so from the person or persons to whom the notice was issued.

(4) If waste has been deposited in or on any unoccupied land in contravention of subsection (1) and it is necessary that the waste be forthwith removed or other steps be taken to eliminate or reduce the consequences of the deposit, the Council may remove the waste from the land or take other steps to eliminate or reduce the consequences of the deposit or, as the

case may require, to remove the waste and take those steps, and is entitled to recover the cost incurred by it –

- (a) from the owner of the land, unless he or she proves that he or she neither made nor knowingly caused nor knowingly permitted the deposit of the waste; or
 - (b) from any person who deposited or knowingly caused or knowingly permitted the deposit of any of the waste.
- (5) Any waste removed by the Council belongs to the Council and may be dealt with accordingly.
- (6) A person who contravenes a provision of subsection (1) or who fails to comply with a notice issued in terms of subsection (2) commits an offence.

CHAPTER 11

Enforcement and Legal Services

44. Compliance with this By-law and other laws

- (1) The owner or occupier of premises is responsible for ensuring compliance with this By-law in respect of all or any of its stipulations.
- (2) Any person who, or an entity which, requires a waste related license or authorisation in terms of National, Provincial or municipal legislation will have to prove on request, to an authorised official that such person or entity has obtained the appropriate license by submission thereof to the Council within 30 days or such other period as specified by the authorised official.

45. Authorisation of an authorised official

- (1) The Council or a service provider as contemplated in section 31 of this By-law, may authorise any person in its employ to be an authorised official.
- (2) The waste management officer of the Council is an authorised official.

46. Functions and powers of an authorised official

- (1) An authorised official may execute work, conduct an inspection and monitor and enforce compliance with this By-law and, as applicable, National and Provincial legislation relating to waste management.

- (2) Subject to the provision of any other applicable law, an authorised official must carry out the functions contemplated in this section and the powers set out herein.

47. Service of notices and documents

- (1) A notice or document issued by the Council in terms of this By-law must be deemed to be duly authorised if an authorised official signed it.
- (2) If a notice or document is to be served on an owner, occupier or any other person in terms of this By-law it shall be deemed to be effectively and sufficiently served on such a person-
- (a) when it has been delivered to him or her personally or to his or her duly authorised agent;
 - (b) when it has been left at his or her residence or place of business or employment to a person apparently not less than sixteen years of age and residing or employed there;
 - (c) if he or she has nominated an address for legal purposes, having been delivered to such an address;
 - (d) if he or she has not nominated an address for legal purposes, having delivered it to the address given by him or her in his or her application for the provision of waste services, for the reception of an account for the provision of waste services;
 - (e) when it has been sent by pre-paid registered or certified post addressed to his or her last known address for which an acknowledgement of the posting thereof will be obtained from the postal service;
 - (f) in the case of a legal person, by delivering it at the registered office

or business premises of such legal person; or

- (g) if service cannot be affected in terms of subsections (a) to (f), by affixing it to a conspicuous place on the premises concerned.

48. Compliance notices

- (1) An authorised official may issue a written notice to any person contravening the provisions of this By-law.

- (2) A notice in terms of subsection (1) will-

- (a) provide details of the provision of the By-law that has not been complied with;
- (b) provide the owner, occupier, or other party a reasonable opportunity to make representations and state his or her case in writing to the Council within a specified period, unless the owner, occupier or other person was given such an opportunity before the notice was served;
- (c) specify the steps that the owner, occupier or other person must take to rectify or remedy the failure;
- (d) specify the period within which the owner, occupier or other person must take these steps to rectify the failure; and
- (e) indicate that the Council may-
 - (i) if the notice is not complied with, undertake or allow the work that is necessary to rectify the failure to be undertaken and recover from the owner, occupier or other person the actual cost of such work; and
 - (ii) take any other action it deems necessary to ensure

compliance.

- (3) If an owner or occupier or any other person fails to, within the specified period, comply with a written notice served on him or her by the Council in terms of this By-law, the Council may take such action as in its opinion is necessary to ensure compliance, including-
 - (a) Undertaking the actions and/or work necessary and recovering the cost of such actions and/or work from the owner, occupier or other person, as the case may be; or
 - (b) Instituting legal proceedings against the owner, occupier, or other person, as the case may be in terms of section 112 of the Systems Act; and/or
 - (c) The imposition of a fine.
- (4) In the event of an emergency, notwithstanding any other provisions of this By-law, the Council may without prior notice undertake the work contemplated in subsection (3) and recover such costs from the owner, occupier or other person, as the case may be.
- (5) The actual costs recoverable by the Council in terms of subsections (3) and (4) shall be the full costs associated with such work.
- (6) In the case where compliance with a notice is required within a specified number of working days, such period shall be deemed to commence on the date of issue of such notice.
- (7) A notice or document issued in terms of subsection (2) is valid until one of the following events occurs:
 - (a) it is carried out;

- (b) it is cancelled by the authorised official who issued it or, in that person's absence, by a person with similar authority;
 - (c) the purpose for which it was issued, has lapsed.
- (8) An authorised official who is satisfied that the owner or occupier or person apparently in control of any premises has satisfied the terms of a compliance notice may issue a *compliance certificate* to that effect.

49. Power of entry and inspection

- (1) An owner or occupier must, on request, allow an authorised official access to premises to carry out such inspection and examination as he or she may deem necessary to investigate any contravention of this By-law and ensure compliance therewith.
- (2) When accessing the premises, the authorised official must, if requested, identify him or herself through written proof of authorisation.

50. Using force to enter

Force may not be used to affect entry to execute work or conduct an inspection on any premises in terms of section 112 of the Systems Act, unless an emergency arises.

51. False statement or information

No person may make a false statement or furnish false information to the Council, an authorised official or an employee of the Council, or falsify a document issued in terms of this By-law.

52. Offences and Penalties

(1) Any person who, -

- (a) contravenes or fails to comply with any provisions of this By-law;
- (b) fails to comply with any notice issued in terms of this By-law;
- (c) fails to comply with any lawful instruction given in terms of this By-law; or
- (d) who obstructs or hinders any authorised official in the execution of his or her duties under this By-law,

is guilty of an offence and shall on conviction be liable for the payment of a minimum fine of R500.00 but not exceeding R10 000.00 or imprisonment for a minimum period of 6 months but not exceeding 2 years, or to both such fine and such imprisonment, or such fine or imprisonment as the Court may deem appropriate.

- (2) The Court may in addition to any penalty imposed in terms of subsection (1), order a person to repair the damage, make good the loss, rehabilitate the environment, remove waste, or determine what measures must be taken by such person and the payment of the expenses incurred in respect thereof or any other costs or damages.

(3) The Court may, when considering any sentences for an offence in terms of this By-law, take into account the following:

(a) that a person delayed in complying with or failed to comply with the terms or notices or directions given to that person under this By-law;

(b) that a person obtained a financial advantage or was to obtain a financial advantage as a result of the commission of the offence;

(b) the severity of the offence in terms of its impact or potential impact on health, wellbeing, public safety and the environment.

53. COMMENCEMENT AND VALIDITY of the by-law:

This by-law will become effective on the date of promulgation in the Provincial Gazette in terms of section 13(a) & (b) of the Local Government: Municipal Systems Act, Act 32 of 2000, if no comments were received in terms of Section 12(3)(b) of the same Act.

A copy of the resolution related to the By-law will be open for inspection at room 109, first floor, Civic Centre, for a period of thirty (30) days from the date of publication of this notice.