WALTER SISULU LOCAL MUNICIPALITY
WASTE MANAGEMENT BY-LAWS


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1 Interpretation
In these By-laws, unless the contents otherwise indicates –
“abandoned vehicle” means any vehicle or part thereof which has been placed or left on a street or public place without being moved for a period of thirty days;
“approved” in the context of bins, bin liners, containers, receptacles and wrappers, means approved by Council or a licensee for the collection and storage of waste;
“bin” means an approved receptacle for the storage of less than 1,5 cubic metres of waste which may be supplied by Council or service provider to premises in terms of these By-laws;
“bin liner” means an approved loose plastic or other suitable material liner for use in the interior of a bin;
“building waste” means waste produced during the construction, alteration, repair or demolition of a structure, and includes building rubble, earth, vegetation and rock displaced during such construction, alteration, repair or demolition;
“bulky waste” means waste which by virtue of its mass, shape, size or quantity is inconvenient to remove in the routine service provided by Council or a licensee;
“By-law” means legislation passed by Council binding in the municipality on persons to whom it applies;
“commercial service” means any service, undertaken for gain, 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;
“container” means an approved receptacle having a capacity greater than 1,5 cubic metres for the temporary storage of waste in terms of these By-laws;
“Council” means the Walter Sisulu Local Municipal Council and any committee of Council or official to whom Council has lawfully delegated the powers, functions and duties vesting in Council in relation to this by-law and, where applicable, a licensee in respect of a power, function or duty of Council which Council assigned to a licensee in terms of these By-laws;

“council services” means a municipal service relating to the collection of waste, provided exclusively by Council or a licensee in accordance with the provisions of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) and these By-laws;

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

“dailies” means putrescible waste generated by establishments such as, but not limited to, 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 contemplated in section 38;

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

“DWAF” means the National Department of Water Affairs and Forestry;

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

(a) the land, water and atmosphere of the earth;
(b) micro-organisms, plant and animal life;
(c) any part or combination of (a) and (b) and the interrelationships among and between them; and
(d) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

“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 40 mm at any point of its length, any other category of waste or waste generated as a result of garden service activities;

“garden service” means the provision of gardening services by a licensee including the cutting of grass, pruning of trees or any other horticultural activity including
landscaping, to any domestic, business, commercial or industrial premises;

“garden waste handling facility” means a waste handling facility that receives and temporarily stores garden waste or any other recyclable waste;

“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 effect on public health or the environment because of its inherent toxicological, chemical and physical characteristics;

“industrial waste” means waste contemplated in section 40;

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

“level of service” means the frequency of Council service and the type of service;

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

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

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

(a) the residents of municipality;
(b) the ratepayers within Maletswai municipality;
(c) any civic organisation and non-governmental, private sector or labour organisation or body which is involved in local affairs within Council; and
(d) a visitor and another person residing outside of the municipality who, because of his or her presence in the municipality, makes use of services or facilities provided by Council;

“manufacturer” means a person who manufactures raw materials for packaging;

“medical waste” means waste generated by a hospital, clinic, nursing home, doctor's offices, medical laboratory, research facility, dental practitioner, medical practitioner, and veterinarian and which are infectious or potentially infectious, and includes -

(a) microbial wastes including cultures and stocks of infectious wastes and associated biologicals that can cause disease in humans;
(b) human blood and blood products, including serum, plasma and other bloodcomponents;
(c) pathological wastes of human origin, including tissues, organs and body parts removed during surgery or autopsy;
(d) contaminated animal wastes including animal carcasses, body parts and bedding which have been exposed to infectious agents during medical research, pharmaceutical testing or production of biologicals;
(e) isolation wastes associated with animals or human beings known to be infected with "highly" communicable diseases; and
(f) contaminated and uncontaminated sharps including hypodermic needles, scalpels and broken glassware;

"municipality" means the Walter Sisulu Local Municipality;

"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 any person in actual occupation of the land or premises or part thereof without regard to the title under which he or she occupies, and includes –
(a) any person in actual occupation of those premises;
(b) any person legally entitled to occupy those premises;
(c) in the case of those premises being subdivided and let to lodgers or various tenants, the person receiving the rent payable by such lodgers or tenants whether on the person's own account or as agent for any person entitled thereto or interested therein;
(d) any person having the charge of or management of those premises, and includes the agent of any such person when the person is absent from the Republic of South Africa or his or her whereabouts are unknown; or
(e) the owner of those premises;

"outside waste" means waste that has been generated outside of the municipal boundaries;

"owner" means –
(a) a person in whom the legal title to the premises is vested;
(b) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
(c) in the case where Council is unable to determine the identity of the person in whom a legal title is vested, the person who is entitled to the benefit of such premises or a building thereon;
(d) in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;

(e) in relation to –

(i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act 95 of 1986), and without restricting the above, the developer or the body corporate in respect of the common property; or

(ii) a section as defined in such 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;

(f) any legal person including, but not limited to –

(i) a company registered in terms of the Companies Act, 1973 (Act 61 of 1973), Trust inter vivos, Trust mortis causa, a Close Corporation registered in terms of the Close Corporations Act, 1984 (Act 69 of 1984), a voluntary association;

(ii) any Department of State;

(iii) any Council or Board established in terms of any legislation applicable to the Republic of South Africa;

(iv) any Embassy or other foreign entity;

(g) a lessee of municipal property, who will be deemed to be the owner for the purposes of rendering a municipal account;

“packer/filler” means a person who puts goods into packaging;

“person” includes a legal person and, where applicable, a licensee;

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

(a) substances; or

(b) noise, odours, dust or heat, emitted from any activity, including the storage or treatment of waste or substances, construction and the provision of services, whether engaged in by any person or an organ of state, where that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future;

“premises” means an erf or any other portion of land, including any building thereon or any other structure utilised for business, industrial or residential purposes;

“prescribed fee” means a fee determined by Council by resolution or any other applicable legislation;

“producer” means a converter, manufacturer, packer/filler, seller, wholesaler and secondary provider;
“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” means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access and includes –

(a) the verge of any such road, street or thoroughfare;
(b) any bridge, 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” means any substance consisting of, or containing, any radioactive nuclide, whether natural or artificial;

“recyclable waste” means waste which has been separated from the waste stream, and set aside for purposes of re-use, reclamation or recycling;

“regulatory act” means a quasi-legislative act intended to determine the behaviour of the public or a class of the public

"resident" means a person who is ordinarily resident in the municipal area;

"road reserve" means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic which is between the edges of the roadway or that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or the shoulder;

“secondary provider” means a person, such as a shop owner, who supplies a product contained in packaging to a consumer, such as a member of the public;

"seller" means any person who supplies packaging to a user or a consumer of that packaging, whether or not the filling has taken place at the time of the supply;

“service provider” means Council or a licensee;

"special waste" means waste contemplated in section 44;

"special industrial waste" means waste, which in terms of Council's drainage or sanitation regulations may not be discharged into a drain or sewer, and which consists of a liquid, sludge or solid substance, resulting from a manufacturing process, industrial treatment or the pre-treatment for disposal purposes of any industrial or mining liquid waste,
"supply" means doing any of the following, either himself or herself or through an agent acting on his or her behalf, in relation to packaging or packaging materials owned by the supplier:
(i) selling, hiring out or lending,
(ii) providing in exchange for any consideration other than money,
(iii) providing in or in connection with the performance of any statutory function, or
(iv) giving as a prize or otherwise making a gift;
"sustainable development" means the integration of social, economic and environmental factors into planning, implementation and decision-making so as to procure that development serves present and future generations;
“target” means any desired air, water quality or waste standards contained in any legislation;
“tariff” means the user charge for the provision of council services contemplated in section 5;
“waste”, for the purposes of these By-laws, means any undesirable or superfluous solid matter, solid material, solid by-product or solid residue of any process or activity that has been discarded, accumulated or stored for the purpose of discarding, reuse, reclamation or recycling, which matter, material by-product or residue is treated as domestic waste, industrial waste, or special waste, but does not include –
(a) matter processed as part of sanitation services under the Water Services Act, 1997 (Act 107 of 1997);
(b) any gas or gaseous product; or
(c) any radioactive material;
“waste collector” means a person who is registered under the provisions of these By-laws as a waste collector
“waste disposal or processing facility” means any facility or site which receives waste for disposal thereof, and which is operated in terms of a permit obtained from DWAF or 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” means any person or firm that generates or produces waste;
“waste handling charge” means a sum of money that is levied by Council on a producer of waste and which the producer must pay to Council;
“waste management officer” means a person appointed in terms of section 11 to perform and exercise the powers and functions of administering, implementing and
enforcing the provisions of these By-laws, and includes any other official to whom the exercise and performance of such powers and functions has been delegated;

"waste management services" means services that relate to any one or more of the waste management activities;
"waste oil" means mineral or synthetic oil which is contaminated, spoiled or otherwise unfit for its original purpose;
"waste solvent" means solvent which is contaminated, spoiled or otherwise unfit for its original purpose;
“waste stream” means the normal course of waste from its generation to its recovery or disposal;
“wholesaler” means a person who supplies packaging to a seller but who does not carry out the functions of a packer/filler in relation to that packaging;
“workplace” means any place within Council on or in which or in connection with which, a person undertakes council services or commercial services; and
“wrapper” means a plastic or other suitable or approved material covering that totally encloses bales or slugs of compacted waste.

2 Principles and objectives
(1) The Council, in performing its functions under these By-laws, must have due regard to the following principles, that is to say –
   (a) all residents in the municipality have the right to an environment that is safe and not harmful to his or her health or well-being;
   (b) Council must respect, protect, promote and fulfil the social, economic and environmental rights of everyone and strive to meet the basic needs of previously disadvantaged communities;
   (c) inequality in the distribution of wealth and resources, and the resultant poverty, are among the important causes as well as the results of environmentally harmful practices;
   (d) sustainable development requires the integration of social, economic and environmental factors in the planning, implementation and evaluation of decisions to ensure that development serves present and future generations;
   (e) everyone has the right to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that –
      (i) prevent pollution and ecological degradation;
      (ii) promote conservation; and
(iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development; and

(f) the environment is a functional area of concurrent national, provincial and local governmental legislative competence, and all spheres of government and all organs of state must co-operate with, consult and support one another.

(2) In view of the principles stated above, Council strives to attain the following objectives:

(a) To promote the application of appropriate environmental management tools in order to ensure the integrated environmental management of activities;

(b) to promote the integration of the principles of environmental management into the making of all decisions which may have a significant effect on the environment;

(c) with a view to minimising negative impacts, maximising benefits, and promoting compliance with the principles of environmental management, to identify, predict and evaluate the actual and potential impact on the environment, socio-economic conditions and cultural heritage of the risks and consequences and alternatives and options for mitigation of activities;

(d) to ensure that the effects of activities on the environment receive adequate consideration before actions are taken in connection with them;

(e) to ensure adequate and appropriate opportunity for public participation in decisions that may affect the environment;

(f) to ensure the consideration of environmental attributes in management and decision-making which may have a significant effect on the environment, and identify and employ the modes of environmental management best suited to ensuring that a particular activity is pursued in accordance with the principles of environmental management; and

(g) to coordinate the activities of its organs and assist them in giving effect to the objectives of this section and such assistance may include training, the publication of manuals and guidelines and the co-ordination of procedures, and therefore in these By-laws provides for and, having regard to the fact that due to financial and administrative constraints the stated objectives can only be implemented and phased in over time, may in terms of section 86(3) provide for –
some or all of the aspects of the waste management activities relating to non hazardous, solid waste, that is to say –

(aa) the avoidance, minimisation, reduction and generation of waste;
(bb) the separation, storage, collection and transfer of waste;
(cc) the recovery of waste, which activity includes the reclamation, re-use and recycling of waste; and
(dd) the disposal of waste, which activity includes landfilling and the incineration of waste;

(ii) the effective resourcing, planning and delivery of services by Council and commercial services, which may include the setting of specific targets to be met;

(iii) the enhancement of sustainable development, including but not limited to the establishment of new facilities to produce good from post-consumer and recovered materials;

(iv) the involvement of local communities in the development of local waste management plans and activities;

(v) the minimisation of the consumption of natural resources;

(vi) the education of the public in matters relating to a healthy and sustainable environment; and

(vii) the review, administration and enforcement of the above and matters related thereto.

CHAPTER 1
PROVISION OF SERVICES

3. Council as primary service provider

(1) Council as the primary service provider in the municipality has a duty to the local community to progressively ensure efficient, affordable, economical and sustainable access to waste management services in its area or a part of its area.

(2) This duty is subject to –

(a) the duty of members of the local community as users of Council’s waste management services or any other person making use of Council’s waste management services to pay for the provision of the services the tariffs contemplated in section 5; and

(b) the right of Council to differentiate, for the purposes of managing waste, between categories of users, waste, and geographical areas when setting
service standards and levels of service for the provision of waste management services, and for these purposes Council must comply with national legislation and have regard to the principles and objectives of these By-laws.

(3) In ensuring waste management services, Council must take the following factors into account:

(a) The principles and objectives underlying these By-laws;
(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.

4. Duties of Council
(1) Council must, as far as is reasonably possible and subject to the provisions of these By-laws, at a cost to users of the services –
(a) provide for the collection of waste on a regular basis, except waste in its area–
   (i) which is situated at a place which is so isolated or inaccessible that the cost of collecting it would be unreasonably high; or
   (ii) as to which Council is satisfied that adequate arrangements for its disposal have been or can reasonably be expected to be made by a person who controls the waste;
(b) provide industries access to appropriate waste disposal facilities;
(c) if requested by the occupier of premises in its area to collect any waste from the premises, to arrange for the collection of the waste; and
(d) subject to section 50, provide facilities for the recovery and disposal of waste.

(2) Council or the licensee must notify all users of Council’s waste management services of any decisions taken in terms of these By-laws.

5. Tariffs
The tariffs for waste removal and disposal will be prescribed by Council in the tariff regulations.
CHAPTER 2
WASTE INFORMATION SYSTEM

6. Establishment of Waste Information System

(1) Council must within a year after these By-laws have commenced establish and set out the details regarding the implementation, management, maintenance, and updating of a Waste Information System which is to record how non-hazardous solid waste is managed within the municipality.

(2) The Waste Information System, which must meet national and provincial legal requirements, must include –

(a) information relating to or connected to the management of waste within the municipality;
(b) a register of pollution and waste releases and transfers, to be known as the Pollutant Releases and Transfer Register;
(c) a register of waste collectors and waste recovery and disposal facilities;
(d) a system of storing and disseminating information on a regular basis; and
(e) a site registry, which must include information in respect of –
   (i) all site profiles, preliminary site investigations and detailed site investigations that Council receives;
   (ii) all orders, approvals, voluntary remediation agreements and decisions, including determinations made by Council under these By-laws;
   (iii) pollution abatement orders requiring remediation;
   (iv) notifications of independent remediation;
   (v) declarations and orders made by Council;
   (vi) other information required by these By-laws; and
   (vii) decisions taken in terms of section 81 (Appeal).

7. Purpose of Waste Information System

The purpose of the information system is for Council to –

(a) record data relating to the implementation of the management of waste in the municipality;
(b) record information held by Council in relation to any matters relating to the management of waste;
(c) furnish information upon request or as required by law to the local community, provincial or national government;
(d) gather information regarding potential and actual waste generators and licensees; and
(e) provide information to waste generators, licensees and the local community in order to –
   (i) facilitate monitoring of the performance of Council and licensees, and where applicable waste generators;
   (ii) stimulate research; and
   (iii) assist Council to achieve the main objectives of these By-laws.

8. **Provision of information**

Subject to the provisions of any other law including the common law, Council must determine when information is to be furnished, and may require any waste generator, licensee, or person involved in or associated with the provision of waste management services within the municipality to furnish Council with information that may be required by Council, which information may include:

(a) Significant sources of waste generation and the identification of the generators of waste;
(b) quantities and classes of waste generated;
(c) management of waste by waste generators;
(d) waste handling and processing facilities;
(e) population and development profiles;
(f) reports on progress in achieving any waste management targets;
(g) markets for waste by class of waste or category; and
(h) any other matter required by legislation or regulation on the management of waste.

9. **Access to information**

The local community is entitled to reasonable access to the information contained in the information system, subject to any limitations imposed by law, and Council –

(a) must at the request of a member of the local community, provide to that member information contained in the information system;
(b) must take steps to ensure that the information provided is in a format appropriate for lay readers, and with a readability score of not less than 50 on the Flesch Reading Ease Test or a similar readability test; and
(c) may impose a fee for providing such information in order to cover the cost of providing the information requested.
10. **Report by Council**

Council must once a year publish a report on the implementation of the waste management regulations, and the report must include –

(a) a description of activities and measures taken to achieve the objects of the regulations;

(b) an indication of whether the objects of the regulations are being achieved, and if not, an explanation of problems which have undermined the achievement of the objects;

(c) details of persons who have not complied with the regulations and in respect of whom legal proceedings have been initiated; and

(d) a description of incidents of illegal dumping.

**CHAPTER 3**

**INTEGRATED WASTE MANAGEMENT OFFICER**

11. **Appointment of waste management officer**

(1) Council must appoint a waste management officer who will be vested with the authority to exercise a power granted by and within the scope of the provisions of these By-laws.

(2) In appointing a waste management officer, Council must have regard to –

   (a) a person's technical understanding and experience of matters related to waste management; and

   (b) any other factor that may be relevant to supervision and enforcement of these By-laws, whether technical or administrative.

(3) A waste management officer may be an employee of Council or a service provider of Council, and in the instance where a waste management officer is an employee of a service provider there may be no conflict of interest between his or her duty as a waste management officer and as an employee of the service provider.

(4) Upon appointment Council will issue the waste management officer with an identification card which must state the name and function of the waste management officer, and which includes a photograph of him or her.

(5) A waste management officer, acting within the powers vested in him or her by these By-laws must, on demand by a member of the local community, produce the identity card.
12. Responsibility
   (1) A waste management officer –
       (a) must monitor and enforce compliance with these By-laws;
       (b) must investigate any act or omission which on reasonable suspicion may constitute –
           (i) an offence in terms of these By-laws;
           (ii) a breach of a provision of these By-laws; or
           (iii) a breach of a condition of a licence, authorisation or other instrument issued in terms of these By-laws.
   (2) A waste management officer –
       (a) must develop an Integrated Waste Management Plan based on the principles of the National Waste Management Strategy and ensure the implementation thereof;
       (b) must exercise the powers referred to in subsection (1) –
           (i) in accordance with any instructions issued by Council;
           (ii) subject to any limitations and procedures that may be prescribed; and
       (c) may be accompanied by an interpreter or any other person whose assistance may be reasonable required.

13. General powers
   (1) A waste management officer may –
       (a) require a person to disclose information, either orally or in writing, and either alone or in the presence of a witness, about any act or omission which, on reasonable suspicion, may constitute –
           (i) an offence in terms of these By-laws;
           (ii) a breach of a provision of these By-laws; or
           (iii) a breach of a condition of a licence, authorisation or other instrument issued in terms of these By-laws;
       (b) require that any disclosure in terms of paragraph (a) be made under oath or affirmation;
       (c) inspect, or question a person about any document, book or record or any written or electronic information –
           (i) which may be relevant for the purpose of paragraph (a); or
           (ii) to which these By-laws relate;
(d) copy, or make extracts from any document, book or record, or any written or electronic information, referred to in paragraph (c), or remove such document, book or record or written or electronic information to make copies or extracts;

(e) require a person to produce or deliver to a place specified by the environmental management officer, any document, book or record or any written or electronic information referred to in paragraph (c) for inspection;

(f) inspect, question a person about, and if necessary remove any specimen, article, substance or other item which on reasonable suspicion may have been used in –
   (i) committing an offence in terms of these By-laws;
   (ii) breaching a provision of these By-laws; or
   (iii) breaching a condition of a licence, authorisation or other instrument issued in terms of these By-laws;

(g) record information by any method, including by taking photographs or making videos;

(h) demand the name, address and identification number of any person who –
   (i) is reasonably suspected of having committed an offence in terms of these By-laws;
   (ii) is reasonably believed to be able to give evidence relating to an offence in terms of these By-laws; or
   (iii) is reasonably suspected of having evidence that an offence in terms of these By-laws has been committed;

(i) instruct a person who –
   (i) commits an act in contravention of a provision of these By-laws or of a condition of a licence, authorisation or other instrument issued in terms of these By-laws, to cease committing that act immediately or within a specified period; or
   (ii) fails to perform an act required by a provision of these By-laws, or by a condition of a licence, authorisation or other instrument issued in terms of these By-laws, to perform that act immediately or within a specified period of 14 days;

(j) dig or bore into the soil;

(k) take samples;
(l) remove any waste or other matter deposited or discharged in contravention of these By-laws or a condition of a licence, authorisation or other instrument issued in terms of these By-laws; or
(m) carry out any other duty that may be prescribed in terms of these By-laws.

(2) A waste management officer must –
(a) provide a receipt for –
   (i) any document, book, record or written or electronic information removed in terms of subsection (1)(d); or
   (ii) any specimen, article, substance or other item removed in terms of subsection (1)(f); and
(b) return anything removed within a reasonable period.

14. **Powers to enter and search premises, land, water, or other places.**

(1) A waste management officer may, subject to subsection (2) of this section, and under authority of a warrant, enter and search any premises, land, waters or other place on reasonable suspicion –
(a) that an offence in terms of these By-laws has been or is being committed on, or in respect of such premises, land, waters or other place;
(b) that a provision of these By-laws or condition of a licence, authorisation or other instrument issued in terms of these By-laws has been or is being breached on, in or in respect of such premises, land, waters or other place; or
(c) that a thing which may serve as evidence of such offence or breach is kept on or in such premises, land, waters or other place.

(2) A waste management officer may –
(a) exercise on such premises, land, waters or other place any of the powers mentioned in sections 13, 15 and 16; or
(b) be accompanied by assistants, vehicles, vessels, materials, equipment or things that are necessary for the purpose of –
   (i) gaining entry to or carrying out the search on such premises, land, waters or other place; or
   (ii) exercising any of the powers referred to in paragraph (a).

15. **Powers to stop, enter, and search vehicles, vessels and aircraft**
(1) A waste management officer may, under authority of a warrant, enter and search any vehicle, vessel or aircraft, or search any pack-animal, on reasonable suspicion that that vehicle, vessel, aircraft or pack-animal—
(a) is being or has been sued, or contains or conveys a thing which is being or has been used to commit—
   (i) an offence in terms of these By-laws; or
   (ii) a breach of a provision of these By-laws, or a condition of a licence, authorisation or other instrument issued in terms of these By-laws; or
(b) contains or conveys a thing which may serve as evidence of such offence or breach.

(2) A waste management officer may for the purpose of implementation of subsection (1), at any time, under authority of a warrant—
(a) order the driver of a vehicle or vessel to stop, or the pilot of an aircraft to land; or
(b) if necessary, force the driver or pilot to stop or land.

(3) A waste management officer may—
(a) exercise on or in respect of such vehicle, vessel or aircraft any of the powers mentioned in sections 13, 14 and 16; or
(b) be accompanied by assistants, materials, equipment or things that are necessary for the purpose of—
   (i) gaining entry to or carrying out the search on or in such vehicle, vessel or aircraft; or
   (ii) exercising any of the powers referred to in paragraph (a).

16. Powers to seize

(1) A waste management officer may, under authority of a warrant, seize—
(a) any item in respect of which, on reasonable suspicion, an offence in terms of these By-laws has been or is being committed;
(b) any vehicle, vessel, aircraft, tool, weapon, animal or other thing which on reasonable suspicion, has been or is being used in the commission of an offence in terms of these By-laws; or
(c) anything which, on reasonable grounds, may be used as evidence in the prosecution of any person for an offence in terms of these By-laws.

(2) Where any vehicle, vessel, aircraft, or animal is seized in terms of subsection (1)(b), the person in control of the vehicle, vessel, aircraft or animal must take it to the place designated by the waste management officer.
(3) The vehicle, vessel, aircraft or animal must be kept at the designated place pending any criminal proceedings in terms of these By-laws or a specific environmental management Act.

(4) If the person in control of the vehicle, vessel, aircraft or animal refuses to take the vehicle, vessel, aircraft or animal to the designated place the environmental management officer may do so.

(5) In order to safeguard a vehicle, vessel or aircraft that has been seized, the waste management officer may immobilise it by removing a part.

(6) An item seized in terms of this section, including a part of a vehicle, vessel or aircraft referred to in subsection (5), must, subject to the provisions of section 78, be kept in such a way that it is secured against damage.

17. **Offences relating to waste management officers**

A person commits an offence if he or she –

(a) hinders or interferes with a waste management officer in the execution of that officer’s official duties;

(b) falsely professes to be a waste management officer, or the interpreter or assistant of such an officer;

(c) furnishes false or misleading information when complying with a request of an waste management officer; or

(d) fails to comply with a request of a waste management officer.

CHAPTER 4

DUTY OF CARE, PRODUCER RESPONSIBILITY, AND WASTE PREVENTION AND MINIMISATION

**Part 1**

**Duty of care**

18. **Duty of care**

(1) In the spirit of section 28 of the National Environmental Management Act, 1998 (Act 107 of 1998), the Council provides that 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 pollution or degradation of or damage to the environment, including an owner or occupier of land or premises, a person in
control of land or premises or a person who has a right to use the land or premises on which or in which –

(a) any activity or process is or was performed or is or was undertaken; or

(b) any other situation exists, which causes, has caused or is likely to cause or increase the risk of harm to human health or pollution or degradation of or damage to the environment.

(2) No person may engage in council services or commercial services –

(a) in a manner; or

(b) for whatever purpose, including the minimisation, recovery and disposal of waste, that may result in or may create a risk of harm to human health or pollution or degradation of or damage to the environment, except in so far as such risk of harm or pollution, degradation or damage is an unavoidable aspect of the services and has been authorised by Council.

(3) A person who contravenes a provision of subsection (1) or (2) commits an offence.

19. Remedial measures to be taken by person

(1) Every person who causes, has caused or may cause significant pollution or degradation of or damage to the environment must take reasonable remedial measures –

(a) to prevent the pollution, degradation or damage from occurring, continuing or recurring; or

(b) in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of or damage to the environment.

(2) The remedial measures include measures to –

(a) investigate, assess and evaluate the impact of the activity, process or situation on the environment;

(b) inform and educate an employee about the environmental risks of his or her work and the manner in which his or her tasks must be performed in order to avoid causing pollution or degradation of or damage to the environment;

(c) cease, modify or control any act, activity, process or situation causing the pollution, or degradation of or damage to the environment;

(d) contain or prevent the movement of pollutants or the causation of pollution or degradation of or damage to the environment;
(e) eliminate or mitigate any source of the pollution or degradation of or damage to the environment; and

(f) remedy and rehabilitate the effects of the pollution or degradation of or damage to the environment.

(3) Should a person fail to take remedial measures, Council may, in the spirit of section 31A of the Environment Conservation Act, 1989 (Act 73 of 1989), act in terms of section 73.

**Part 2**

**Producer responsibility**

20. **Producer to be responsible**

(1) Council, in the implementation of the scope and objectives of these By-laws, and fully aware of the duty of care that rests on a producer of waste, provides that –

(a) a producer is responsible for waste generated by his or her activities;

(b) a producer must, to the extent allowed in these By-laws and which may or may not be prescribed by these By-laws, take reasonable measures to minimise, recover and dispose of waste which he or she has generated within the municipality.

(2) Should a person fail to comply with a provision of subsection (1)(b), Council may act in terms of section 73.

**Part 3**

**Waste prevention and minimisation**

21. **Need to prevent or minimise production of waste, and related provisions**

(1) A person who carries out any activity of an agricultural, commercial or industrial nature, including the manufacture of any product, must –

(a) have due regard to the need to prevent or minimize the production of waste from that activity and, as the case may be, from any product manufactured by him or her as a result of such an activity; and

(b) take all such reasonable steps as are necessary for the purposes of such prevention or minimization.

(2) Should a person fail to comply with a provision of subsection (1)(b), Council may act in terms of section 73.
22. **Council to arrange for long-term contracts**

In order to encourage establishments of new facilities to produce goods from post-consumer and recovered materials generated within the municipality, and to conserve energy by reducing material transportation, whenever appropriate, Council may arrange for long-term contracts to purchase a substantial share of the product output of a proposed facility which will be based in the jurisdiction of the municipality if such facility will manufacture such finished products from post-consumer and recovered materials.

**CHAPTER 5**

**WASTE MANAGEMENT**

**Part 1**

**Waste management activities and categories of waste**

23. **Waste management activities**

For the purposes of these By-laws, the following activities constitute waste management activities:

(a) Generation, reduction and minimisation of waste;

(b) waste handling, which includes the separation, storage, collection, and transfer of waste;

(c) waste treatment, which includes the –

   (i) recovery of waste, recovery being the recycling, reclamation and re-use of waste and as further specified in Part 7; and

   (ii) disposal of waste as further specified in Part 7.

24. **Categories of waste**

For the purposes of these By-laws, the following categories of non-hazardous, solid waste exist:

(a) Domestic waste;

(b) industrial waste;

(c) special waste; and

(d) medical waste.
Part 2

General provisions relating to domestic, industrial and special waste

25. Numbering of premises

(1) The occupier of a house or building on premises in or alongside any lane, street or road in the municipality must mark the house or building with a number as Council may direct, and the number must be –

(a) painted or permanently affixed;

(b) in figures of a colour and size to be legible;

(c) in a conspicuous place at the front entrance of the premises; and

(d) renewed as often as it becomes obliterated or defaced.

(2) In the case of premises having its back entrance in one lane, street or road, and its front entrance, from which waste will be collected, in another lane, street or road, the owner or occupier must –

(a) paint or affix the number in a conspicuous place at the front entrance of the premises and at the back entrance or side entrance thereof, as the case may be; and

(b) comply with provisions of subsection (1)(a), (b) and (d).

(3) A person who contravenes a provision of this section commits an offence.

26. Separation of waste

(1) The occupier of premises must as far as practicable ensure that waste generated on the premises is, before disposal of the waste, separated into the following categories and stored accordingly:

(a) General waste;

(b) recyclable waste such as, but not limited to, paper, cardboard, glass, plastics, metal, tyres, wood, and electronic appliances such as computers, refrigerators, deep freezers; and

(c) bio-degradable waste suitable for composting such as grass and putrescibles, and a particular category of waste must be placed in a separate container

(2) Noxious waste, such as but not limited to batteries or motorcar oil must be separated from other categories of waste.
(3) Bulky electronic appliances and appliances contemplated in subsection (1)(b) must be treated as special waste in accordance with the provisions of section 47.

(4) Waste must be placed in a container which does not allow any waste or part of the waste to escape from the container, and the container must be closed so as to prevent any waste or part thereof to escape.

(5) A person who contravenes a provision of subsection (2) or (4) commits an offence.

27. **Provision of receptacles or racks for storage of waste**

(1) The occupier of a premise must provide on the premises, at his or her own expense, a sufficient number of approved portable, covered receptacles of an approved size and design, for the reception of the maximum quantity of waste that is likely to accumulate on the premises during a period of seven days.

(2) Council may supply receptacles or racks for the reception and storage of waste at a price not less than the inclusive cost thereof to Council or on a hire basis, and in the latter event such receptacle or rack remains the property of Council.

(3) Council may prescribe special receptacles or racks for the reception and storage of such types of waste as Council may, where special receptacles are necessary, specify and may by written notice to be served on the occupier of premises require the occupier to provide at his or her own expense such number of special receptacles or racks as are specified in the notice and the occupier must forthwith comply with the notice, failure of which Council may act in terms of section 73.

(4) Where any waste receptacle or rack provided on premises is –

(a) of a size likely to hinder the efficient removal of waste there from by the servants of Council;

(b) insufficient for the reception of all waste which is to be removed from such premises by Council;

(c) dilapidated; or

(d) likely to cause a nuisance,

Council may, having regard to such storage in the most compact and hygienic manner and to avoid the necessity for collecting waste from the premises more than twice weekly, act in terms of section 73, requiring the occupier of the premises to provide, at his or her own expense, such number of receptacles or racks or other means of storing receptacles or packages or bundles of waste,
however, Council may in the notice require or authorise in writing the provision of waste receptacles or racks of such different size or design as may be specified by Council where the prescribed standard receptacles would not be practical.

(5) No person may dispose of any waste by placing it anywhere else than in a receptacle or other container or rack provided or approved by Council.

(6) A person who contravenes a provision of subsection (1) commits an offence.

28. Location of receptacle

(1) The occupier of a premises must provide adequate space on the premises where a receptacle for the purpose of depositing waste or a specific category of waste, or packages or bundles of waste required to be packed or bundled in terms of these By-laws are kept, and the space must –
   (a) comply with requirements imposed by Council by notice to the occupier;
   (b) where applicable, be constructed in accordance with the requirements of any applicable building regulations be so located that the receptacle or racks are not visible from a street or public place;
   (c) where applicable, be so located as to permit convenient access to and egress from such place for a waste collection vehicle; and
   (d) be in a location convenient for the use by users or occupants of the premises so as to discourage littering or the unhealthy accumulation of waste.

(2) In the case of multi-storey buildings, the municipality may approve the installation of refuse chutes of and approved design and specification, and subject to the submission and approval of the plans for such installation.

(3) The occupier of premises must place or cause the receptacle or packages or bundles to be placed in the space provided and must at all times keep it there.

(4) A person who contravenes a provision of subsection (1) or (3) commits an offence.

29. Standards which receptacles must meet

Council may –
   (a) provide plastic bags, which meet the standards set by national or provincial legislation; and
   (b) authorise the use of bins and lids constructed of rubber or other material where the design and construction have been approved by Council.
30. **Maintenance of receptacle**

(1) The occupier of premises must ensure that a receptacle is kept closed at all times except when waste is being deposited into it or discharged from it, and that a receptacle or rack is –

(a) at all times maintained in good order, repaired and in a clean and hygienic condition;

(b) at all times suitably weighed or anchored so that it cannot be inadvertently overturned;

(c) at all times is weatherproof and animal proof;

(d) emptied and cleansed periodically or when full, so that its contents do not become a nuisance or provide grounds for complaint; and

(e) protected against unauthorised disturbance or interference at all times when waste is not being deposited into it or discharged from it.

(2) A person who contravenes a provision of this section commits an offence.

31. **Contents of receptacle, tyres and waste oil**

(1) No material, including any liquid, which by reason of its mass or other characteristics is likely to render a receptacle unreasonably difficult for employees of Council to handle or carry, may be placed in a receptacle.

(2) Dailies and similar waste likely to decompose and cause a nuisance must, before being deposited in the receptacles, be sealed in a bag provided for this purpose by Council or in a bag of similar quality which is disposable and watertight.

(3) A receptacle may not be used for any purpose other than the storage of waste.

(4) No person may –

(a) light a fire in a receptacle;

(b) deposit in a receptacle burning or glowing coal, ashes or other burning material; or

(c) unless suitable steps have been taken to avoid damage to the receptacle or injury to Council's employees collecting it or damage to the vehicle in which it is placed for removal, deposit in a receptacle any material that is likely to –

(i) cause damage to the receptacle;

(ii) cause injury to Council's employees while carrying out their duties; or
(iii) cause damage to the vehicle in which it is placed; or
(d) hinder or delay work in terms of these By-laws of Council’s employees.

(5) Tyres must be stored in areas away from open fires or other ignition sources and may not exceed twenty five in number.

(6) Waste oil must be stored in leakproof metal, plastic or concrete containers which are not subject to fire or accidental spillage, and the storage or disposal of waste oil in earth pits or upon the surface of any plot, street or public area is prohibited.

(7) No person may mix source-separated recyclable materials with other waste in any container or vehicle used in waste collection or disposal.

(8) A person who contravenes a provision of this section commits an offence.

32. **Collection of waste**

(1) Council may, having regard to the avoidance of nuisance and the convenience of collection of waste, indicate a position within or outside the premises where the receptacle must be placed for the collection and removal of the waste and the receptacle or bundled or packaged waste must then be placed in that position at the times and for a period as Council or the licensee may require.

(2) Council must collect all waste placed in portable receptacles or bundles or packaged waste from all premises upon which a compulsory domestic waste removal tariff has been levied in terms of section 5.

(3) Council must collect only waste placed in a receptacle or other container approved by it or is bundled or packaged in a manner approved by the municipality.

(4) Where a particular kind of waste as stipulated by Council is not collected by Council from the premises, the owner of the waste must arrange for the collection and transport of the waste as often as may be necessary to prevent undue accumulation or any nuisance arising therefrom, to a waste disposal or processing site under the control of Council, or to such other place as may be approved by Council.

(5) Council may decide on separate times on which particular categories of waste are to be collected.

(6) Council may –
(a) cause collections to be made at regular periods daily or otherwise, and may alter dates of collection;
(b) increase the number of collections as it may deem necessary or desirable; or
(c) make additional collections should it be desirable.

(7) In the event of any additional collection being required by the occupier of premises, the additional collection will be subject to the approval of Council and each additional collection must be paid for by the occupier of premises from which the waste is collected at the tariff contemplated in section 5.

(8) A person requiring commercial services must satisfy himself or herself that the licensee is licensed to collect and dispose of the category of waste, and the person must take reasonable steps to ensure that the relevant waste is collected and disposed of in terms of these By-laws.

(10) A person who contravenes the provisions of section (1), (4), or (8) commits an offence.

33. Access to premises

(1) Subject to section 32(1), and except where otherwise approved by Council taking into account physical accessibility, the owner or occupier of premises must ensure that—
(a) access from the nearest public road to the waste storage area on a premises is independent and unimpeded;
(b) access from the nearest public road to the waste storage area on a premises does not lead through any aperture less than 1 metre wide and 2.5 metres high;
(c) the area and all parts of the access thereto is on the same level as the road; and
(d) the area and all parts of the access thereto is not more than 18 metres from the entrance to the premises from which the collection of waste is made.

(2) A person who contravenes a provision of this section commits an offence.

34. Right of entry

(1) Any duly authorised employee of Council is entitled to enter premises in respect of which Council’s waste management services are rendered at any time between the hours of 07h30 and 16h15 on any weekday, or at any other time at which the service is ordinarily rendered in respect of the particular premises for any of the following purposes:
(a) For collecting and supervising the collection of waste;
(b) for replacing receptacles or containers; or
(c) for inspecting the means of access to the premises as contemplated in section 33, or the space where waste receptacles or containers are kept so as to ensure that they are accessible and convenient for the collectors.

(2) The occupier of the premises may not refuse access to the premises by an employee of Council calling there for the purposes contemplated in subsection (1).

(3) An occupier of premises commits an offence if he or she –
(a) denies access to the premises to an authorised employee of Council in the performance of his or her duties; or
(b) obstructs or impedes such employee of Council in the performance of his or her duties.

35. Inaccessible premises
(1) The owner or occupier of premises whom the municipality has notified that the premises are dangerous because of –
(a) the existence on the premises of a vicious animal; or
(b) any other reason which renders the premises dangerous, must, on the day on which waste is collected from the premises, place for collection all receptacles or other containers, packages or bundles of waste outside the premises at a time and for a period as specified in the notice.

(2) A person who contravenes a provision of this section commits an offence.

36. Interference with receptacle
(1) No person may allow his or her animal to interfere with, overturn or damage a receptacle which has been placed for collection.

(2) No person other than a person employed by Council in connection with Council’s waste management services may, where a receptacle placed in a street or public place for the purpose of its contents being removed by Council—
(a) sort over, interfere with or disturb the contents of a receptacle; or
(b) scavenge waste for any waste materials or food waste.

(3) A person who contravenes a provision of this section commits an offence.

37. Transfer of waste
(1) A person removing or conveying waste along any road, street or public place in or through an area owned or managed by Council –

(a) must ensure that the receptacle, vehicle or conveyance in which the waste is carried is of a type and design approved by Council;
(b) must ensure that receptacle, vehicle or conveyance has a body of adequate size and construction for the type of waste being transported;
(c) must remove or convey the waste in such a manner as will prevent any nuisance resulting therefrom or the escape of the contents or materials therein;
(d) must maintain the receptacle, vehicle or conveyance in a clean, sanitary and roadworthy condition at all times;
(e) may not cause or permit any waste being transported to become detached, leak or fall from the receptacle, vehicle or conveyance transporting it, except at a waste disposal facility; and
(f) must ensure that the waste is deposited at a waste disposal facility that is permitted to accept such waste.

(2) A person who contravenes a provision of this section commits an offence.

Part 4
Specific provisions relating to domestic waste

38. Domestic waste
Domestic waste is waste generated on premises used for residential purposes, and the following waste is to be treated as domestic waste:

(a) Waste from premises occupied by a charity, which premises are used wholly or mainly for charitable purposes;
(b) waste from any land belonging to or used in connection with the normal occupation of premises, such as a dwelling house, flat, boarding house or caravan;
(c) waste from a private garage which either has a floor area of 25 square metres or less or is used wholly or mainly for the accommodation of a private motor vehicle;
(d) waste from private storage premises used wholly or mainly for the storage of articles of domestic use;
(e) waste from a moored vessel used wholly for the purposes of living accommodation;
(f) waste from a camp site including a domestic property on a camp site;
(g) waste from a prison or other penal institution;
(h) waste from a hall or other premises used wholly or mainly for public meetings;
(i) waste from a residential hostel, a residential home or from premises forming part of a university, school or other educational establishment or forming part of a nursing home;
(j) waste from domestic property or a caravan used in the course of a business for the provision of self-catering holiday accommodation;
(k) any mineral or synthetic oil or grease;
(l) asbestos; and
(m) waste from halls or other buildings used for religious purposes or public worship.

39. Specific provisions relating to generation, collection and transfer of domestic waste

(1) An occupier on whose premises waste is generated must, in accordance with the objectives and principles underlying, and subject to the provisions of these By-laws, strive and take reasonable measures –
   (a) to minimize the quantity of waste generated; and
   (b) to make, where applicable, waste less hazardous.

(2) The occupier of residential premises from which waste is to be collected must -
   (a) place the receptacle or bag before a time and on a day of the week specified by Council by notice to the occupier;
   (b) ensure that the receptacle or bag is undamaged and properly closed so as to prevent the dispersal of its contents; and
   (c) ensure that the emptied receptacle is removed within a reasonable time, and that the immediate area around the spot where the receptacle or bag was placed, is free from waste that may have been spilled during collection.

(3) A physically infirm or otherwise incapable occupier of residential premises from which waste is to be collected may in writing apply to Council to be exempted from the provisions of section 32(1), and Council may by notice indicate to such occupier where the receptacle or bag must be placed.

(4) Noxious waste shall be collected at the premises on a six-monthly basis or at specific times as decided by Council, or the occupier may deposit the waste at a designated disposal site.
(5) If an occupier intends to transfer waste to a disposal site, the provisions of section 37, where applicable apply.

(6) An occupier of the premises may not deposit or allow to be deposited into any receptacle for domestic waste the contents of which are removable by Council, any waste other than domestic waste.

(7) A person who contravenes a provision of subsection (2) commits an offence.

Part 5
Specific provisions relating to industrial waste

40. Industrial waste
Industrial waste is waste generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities normally generated on premises used for non-residential purposes, which premises are occupied by establishments such as, but not limited to, wholesale, retail, institutional, manufacturing or service establishments, and the following waste is to be treated as industrial waste, without limiting the generality of foregoing:

(a) Waste from an office building, showroom; store, theatre or warehouse;
(b) waste from a hotel;
(c) waste from a private garage which either has a floor area exceeding 25 square metres or is not used wholly or mainly for the accommodation of a private motor vehicle;
(d) waste from premises occupied by a club, society or any association of persons, whether incorporated or not, in which activities are conducted for the benefit of the members;
(e) waste from premises occupied by –
   (i) a court;
   (ii) a government department;
   (iii) the municipality;
   (iv) a body corporate such as, but not limited to, a company or close corporation; or
   (v) an individual appointed by or under any enactment to discharge any public functions;
(f) waste from a tent pitched on land other than a camp site;
(g) waste from a market or fair;
(h) waste from premises used for maintaining vehicles, vessels or aircraft, not being waste from a private garage;
(i) waste, not being medical waste, from a laboratory;
(j) waste from a workshop or similar premises not being a factory;
(k) waste from premises occupied by a scientific research association;
(l) waste from dredging operations;
(m) waste arising from tunnelling or from any other excavation;
(n) waste arising from any aircraft, vehicle or vessel which is not occupied for domestic purposes;
(o) waste which has previously formed part of any aircraft, vehicle or vessel and which is not domestic waste;
(p) non-hazardous waste arising from any of the following industrial operations and manufacturing processes undertaken on premises used for the purposes of a trade or business:
   (i) mixing or selling paints;
   (ii) sign writing;
   (iii) laundering or dry cleaning;
   (iv) developing photographic film or making photographic prints;
   (v) selling petrol, diesel fuel, paraffin, kerosene, heating oil or similar substances; or
   (vi) selling pesticides, herbicides or fungicides;
(q) waste from premises used for the purposes of breeding, boarding, stabling or exhibiting animals;
(r) waste oil, waste solvent or scrap metal, other than waste from a domestic property, caravan or residential home;
(s) waste from premises at which the principal activities are computer operations or the copying of documents by photographic or lithographic means; and
   (i) waste arising from the discharge by the municipality of its duty to clean the streets.

41. Compaction of waste

(1) Where –
   (a) the quantity of waste generated on premises requires daily removal of more than the equivalent of eight 240-litre bins; and
   (b) the major portion of the waste is compactable, Council may require from the generator of the waste to compact that portion of the waste that is
compactable, and the generator of waste must compact any volume of the waste and place it into an approved receptacle or wrapper, subject to the provisions that –

(i) the capacity of the wrapper may not exceed 85 litres; and
(ii) the mass of the wrapper and contents may not exceed 35 kilograms, and 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 to prevent any nuisance arising until collected.

Where a person fails to comply with a requirement by Council in terms of subsection (1), he or she commits an offence.

42. **Standard of receptacle**

   (1) Every new or additional waste receptacle provided by an occupier of premises on which industrial waste is generated must, after the promulgation of these By-laws, be a standard waste receptacle of 85 litre capacity, which is to be rigidly constructed of non-corrugated galvanised mild steel in accordance with South African Bureau of Standards.

   (2) A person who contravenes a provision of this section commits an offence.

43. **Collection of waste**

   (1) The occupier of premises on which industrial waste is generated must ensure that –

   (a) the container in which the waste is stored is not being kept in a public place except as required for collection;

   (b) the waste is collected by a licensee within a reasonable time after the generation of the waste; and

   (c) the service rendered by the licensee is only in respect of that portion of industrial waste authorised in his or her licence.

   (2) A person who contravenes a provision of this section commits an offence.

**Part 6**

**Specific provisions relating to special waste**

44. **Categories of special waste**

   The following waste is to be treated as special waste:
(a) Garden waste;
(b) building waste;
(c) bulky waste; and
(d) animal carcasses.

45. **Garden waste**

(1) The occupier of premises on which garden waste is generated but not composted must ensure that the waste is collected and disposed of within a reasonable time after the generation thereof.

(2) The occupier may –
   (a) compost garden waste on the property, provided that such composting does not cause a nuisance; or
   (b) in writing request Council to supply him or her with a receptacle for the purpose of storing and composting garden waste, and Council may, in addition to any approved receptacle delivered to the premises for the storage of domestic waste, deliver an approved receptacle for the purpose of storing garden waste.

(3) Any person or a licensee may remove garden waste and, once such waste has been collected from the premises on which it was generated, it must be disposed of at a garden waste handling facility.

(4) A large accumulation of garden waste may, on request by the occupier of premises, be removed by Council at a charge determined by Council.

(5) Council, in the course of collecting domestic waste, may collect garden waste if the waste has been placed in an approved receptacle referred to in subsection (2)(b) in the space designated for domestic waste, in which event the tariff for domestic waste applies.

(6) A person who contravenes a provision of subsection (1), (2)(a) or (3) commits an offence.

46. **Building waste**

(1) The owner or occupier of premises on which building waste is to be generated must in writing notify Council at least 14 days prior to the intended generation of building waste of the intention to generate waste and of the proposed manner for its removal and disposal.
(2) Subject to the provisions of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), as amended, the owner or occupier of the premises 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 instructions from Council, any structure necessary to contain the building waste is constructed.

(3) The occupier of premises may apply to Council for written consent to place an approved receptacle for storage and collection of building waste in the road reserve for the period of the consent and the consent given may be subject to such conditions as Council may consider necessary.

(4) Every approved receptacle containing waste which is to be collected, must –

(a) have clearly marked on it the name, address and telephone number of the person in control of the receptacle;

(b) be fitted with reflecting chevrons or reflectors which must completely outline the front and the back of the receptacle; 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.

(5) The owner or occupier of premises on which building waste is generated may himself or herself dispose of the waste or must ensure that the waste is collected and disposed of by a waste collector.

(6) All building waste must be disposed at a waste disposal facility designated for that purpose by Council, unless Council has given written consent for the building waste to be used for the purpose of landfilling, land reclamation or recycling.

(7) A person who does not comply with a condition contemplated in subsection (3) or who contravenes a provision of subsection (1), (2), (4) to (6) commits an offence.

47. Bulky waste
(1) The following is treated as bulky waste:
   (a) An article of waste which exceeds 25 kilograms in weight; and
   (b) an article of waste which does not fit, or cannot be fitted into –
       (i) a receptacle for domestic waste; or
       (ii) a cylindrical container 750 millimetres in diameter and 1 metre in length.

(2) The occupier of the premises on which bulky waste is generated must ensure that the waste is collected and disposed within a reasonable time after the generation thereof.

(3) An occupier or licensee may remove bulky waste, provided that once such waste has been collected from the premises on which it was generated, it is deposited at a facility or site in accordance with the provisions of section 50(5).

(4) A large accumulation of bulky waste may be removed by Council at a tariff determined by Council.

(5) Council, in the course of collecting domestic waste may, subject to section 31(1), collect bulky waste if the waste has been placed in an approved receptacle referred to in section 29 in the space designated for domestic waste, in which event the tariff for domestic waste applies.

(6) A person who contravenes a provision of subsection (2), or who deposits waste in contravention of subsection (3) commits an offence.

48. Animal carcasses

(1) The occupier who discovers on his or her premises a carcass must immediately –
   (a) take steps to have the carcass removed by an animal organization or licensee;
   (b) if the premises are suitable, bury the carcass at a depth which completely covers the whole carcass so that it cannot be dug up by an animal or cause any nuisance whatsoever; or
   (c) if the animal died of a disease, take steps to have the carcass removed by an animal organization or licensee.

(2) The occupier, owner or manager of a game farm or similar establishment must on discovery of a carcass on the farm immediately and subject to the provisions of any other law –
(a) bury the carcass at a depth which completely covers the whole carcass so that it cannot be dug up by an animal or cause any nuisance whatsoever; or
(b) if the animal was diseased, incinerate the carcass.

(3) A person who contravenes a provision of this section commits an offence.

Part 7
Recovery and disposal of waste, and private landfilling

49. Recovery and disposal of waste
(1) Waste must be recovered and disposed of without endangering human health and without the use of processes or methods likely to harm the environment.
(2) The following activities constitute recovery operations:
   (a) Recycling or reclamation of organic substances which are not used as solvents;
   (b) recycling or reclamation of metals and metal compounds;
   (c) recycling or reclamation of other inorganic materials;
   (d) recovery of components used for pollution abatements;
   (e) recovery of components from catalysts;
   (f) oil re-finishing or other re-uses of oil;
   (g) use principally as a fuel or other means to generate energy;
   (h) spreading on land resulting in benefit to agriculture or ecological improvement, including composting and other biological transformation;
   (i) use of wastes obtained from any of the operations above;
   (j) exchange of wastes for submission to any of the operations above; and
   (k) storage of materials intended for submission to any operation in this Part, excluding temporary storage, pending collection, on the site where it is produced.
(3) The following activities constitute disposal operations:
   Landfill; and incineration.

50. Waste recovery facilities and landfill sites
(1) A waste recovery facility or landfill site may not be located in any of the following areas:
   (a) A national park or wildlife area;
   (b) a 25 year periodical flooding area;
(c) a geological fault area;
(d) an area having national, historical or archaeological significance; or
(e) any area not designated for a waste recovery facility or landfill site by Council in these By-laws.

(2) A waste recovery facility or landfill site –
(a) must be located, designed and operated in accordance with these By-laws and all relevant national and provincial legislation;
(b) must be located such that an emission or discharge from the fill or facility does not unduly harm the public health and has minimal impact upon the environment; and
(c) may only be established when an environmental impact assessment in accordance with the rules and procedures of the DWAF has been undertaken.

(3) A waste recovery facility or landfill site, whether public or private, must establish, fund and maintain a reserve fund to insure the proper closure and post closure monitoring of the site, the “size” of such fund to be determined by Council, and –
(a) the fund must be established in the name of both the facility owner and the municipality;
(b) the fund must be funded from tariffs or other mutually agreeable fees; and
(c) any withdrawal from the fund requires the written approval of Council.

(4) It may be required of a person who desires to dispose of waste at a waste disposal or processing site to pay a tariff, as Council may by resolution fix, for the reception and disposal of waste at the site, but any material which can be utilised for covering purposes, such as builders’ rubble or soil, may be accepted at a site free of charge.

(5) Waste generated within municipal area must be disposed of at a waste recovery facility or landfill site that has been permitted to accept and dispose of that particular category of waste and in accordance with the provisions of any other law regulating the disposal of waste, and no person may knowingly dispose of waste at a waste recovery facility or landfill site that is not permitted to accept such waste.

(6) The disposal of waste at a waste recovery facility or landfill site is subject to such conditions as Council may specify, including –
(a) the hours of opening and closing of the facility;
(b) the nature of the waste which may be disposed of at the facility;
(c) the position in any facility in which the waste may be placed; and
(d) any other matters which Council considers necessary to ensure the environmentally sound management of waste.

(7) All waste disposal or processing sites within the municipality whether privately owned or not, are subject to the control of Council to ensure that hygienic and correct procedures are followed in the disposal of all types of waste.

(8) Only a person, with the exception of a person specifically authorised by Council for reasons determined by Council such as, but not limited to, education, public participation and information sessions, who intends to dispose of waste may enter a disposal site and such person must –
   (a) enter the waste recovery facility or landfill site at an access point determined by the operator of the waste recovery facility or landfill site;
   (b) on request, provide Council or the operator of the waste recovery facility or landfill site with any information regarding the composition of the waste;
   (c) follow all instructions issued by the operator of the waste recovery facility or landfill site in regard to access to the actual place where, and the manner in which, the waste should be deposited; and
   (d) on request of the operator supply such particulars or information to the operator as requested.

(9) No person may –
   (a) enter a waste recovery facility or landfill site in an intoxicated state or consume any intoxicating substances on the premises;
   (b) enter a waste recovery facility or landfill site for any purpose other than the disposal of waste in terms of these By-laws, unless authorised to do so by Council or the operator of the waste recovery facility or landfill site and then only at such times and on such conditions as Council or the operator may from time to time determine;
   (c) dispose of waste at a waste recovery facility or landfill site which is not permitted for such waste;
   (d) without authorisation, light any fire upon or near any disposal area; or
   (e) squat in a recovery facility of landfill site.

(10) The operator of the waste recovery facility or landfill site may at any time for the purpose of determining a charge or for any other purpose require a vehicle or a container on a vehicle that has entered the waste recovery facility or landfill site for the purposes of disposing waste to be weighed at a weigh-bridge.
(11) The operator of the waste recovery facility or landfill site may, at a waste recovery facility or landfill site, inspect the content and nature of waste to be disposed of or processed and may take samples and test any waste found on a vehicle or in a container to ascertain its composition.

(12) A person who improperly disposes of waste at a waste recovery facility or landfill area may be liable for all reasonable costs incurred by Council in removing or otherwise dealing with the waste.

(13) A person delivering waste materials to a waste recovery facility or landfill site must separate the materials into the types of waste as designated in the facility’s operating regulations according to the criteria decided on by Council.

(14) A person contravening any of the provisions of this section may be refused entry or be removed from a disposal waste recovery facility or landfill site.

(15) The municipality may sell for its own account waste collected or disposed of by Council, and any waste collected by Council belongs to Council and Council may deal with it accordingly.

(16) A person who contravenes any of the provisions of subsection (1) to (3), (5), (6), (8), (9) or (13) or who refuses to comply with a request contemplated in subsection (10) or who interferes with an operator in the exercise of his or her duty in terms of subsection (11) commits an offence.

51. Private landfill areas

(1) Subject to section 63(4) and (8), an owner or occupier of a plot or premises wishing to fill an area of the plot or premises with inert construction or demolition waste or any other inert material must apply in writing to Council for permission to do so, and must submit the following information:

   (a) A map or sketch of the plot or premises to be filled showing the horizontal and vertical limits of the fill;
   (b) the present condition of the site including all building, watercourses, vegetation and trees;
   (c) the types of materials to be used in filling the site; and
   (d) any other information which the municipality may request regarding the nature and environmental impacts of the filling operation.

(2) Upon receipt and evaluation of an application for a fill area, Council may, upon written notice –

   (a) accept the application as submitted, and issue a permit;
   (b) amend the application after review and consultation; or,
(c) if the filling operation will create an adverse impact on the environment or public health, or constitute a public nuisance, reject the application.

(3) A person who fills an area of the plot or premises with inert construction or demolition waste or any other inert material without the permission contemplated in subsection (1) or in contravention of subsection (2)(c) commits an offence.

Part 8

Unsolicited mail, littering, dumping, abandoned vehicles, and outside waste

52. Unsolicited mail

(1) No person or business may, without the written consent of Council, in any manner and with or without the object of informing the public of any –
   (a) opinion, event or phenomenon of whatever nature, be it factual or fictional, be it past, present or future; or
   (b) product, commodity, or merchandise, be it in existence or not, disseminate to any person or attach to any object whatsoever a leaflet, handbill or any similar article in any public place or area within Council's jurisdiction.

(2) A person who intends undertaking an activity specified in (1) must apply to Council.

(3) Council may approve the application on such conditions as Council deems fit.

(4) A person who contravenes a provision of subsection (1) commits an offence.

53. Littering

(1) In accordance with the provisions of sections 19, 19A and 29A of the Environment Conservation Act, 1989, no person may –
   (a) cause litter;
   (b) other than in a receptacle provided or approved by Council for the discarding of litter by the public, discard any litter, accumulation of dirt, waste, decomposing animal, decaying vegetable matter, or other noxious matter;
   (c) burn any litter, accumulation of dirt, waste, decomposing animal, decaying vegetable matter, or other noxious matter, in or upon any public place or premises, excluding land zoned for agricultural purposes;
   (d) disturb anything in, or remove anything from, any receptacle which has been placed for the purposes of collecting litter;
(e) sweep anything contemplated in paragraph (a) into a gutter, onto a road reserve or onto any other public place; or
(f) allow a person under his or her control or an animal under his or her control to do any of the above acts.

(2) An occupier or owner must monitor the premises for acts of littering by another person and must report such person to Council.

(3) An occupier or owner of premises must, within a reasonable time after any litter has been discarded on the premises, remove the litter or cause it to be removed.

(4) A person who contravenes a provision of subsection (1) or (3) commits an offence.

54. Dumping

(1) No person may –

(a) except by permission of the owner or of the person or authority having control thereof; or

(b) unless authorised by law to do so, dump, accumulate, place, deposit or leave any waste whatsoever, whether for gain or otherwise, or cause or allow to be dumped, accumulated, placed, deposited or left such waste on or in –

(i) any road, highway, street, lane, public footway or pavement or any road verge;

(ii) any commonage land, village green, park, recreation ground or other open space to which the public have access;

(iii) any drain, watercourse, flood prone areas, tidal or other water 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 do any of the acts contemplated in subsection (1), Council may by written notice require any of the following persons to dispose of, destroy or remove the waste within 7 days of the notice:

(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 or occupier of the land or premises on which the waste was dumped, accumulated, placed, deposited, or left, whether or not he or she is responsible therefore,

(3) If a person fails to comply with the requirements of a written notice, 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 land in contravention of subsection (1) and –

(a) in order to remove or prevent pollution of land, water or air or harm to human health, it is necessary that the waste be forthwith removed or other steps taken to eliminate or reduce the consequences of the deposit or both;

(b) there is no occupier of the land; or

(c) the occupier neither made nor knowingly permitted the deposit of the waste, Council may remove the waste from the land or take other steps to eliminate or reduce the consequences of the deposit and is entitled to recover the cost incurred by it in removing the waste or taking the steps or both and in disposing of the waste –

   (i) from the occupier 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

   (ii) from any person who deposited or knowingly caused or knowingly permitted the deposit of any of the waste.

(5) Any waste removed by Council belongs to Council and may be dealt with as Council deems fit.

(6) A person who contravenes a provision of subsection (1) commits an offence.

55. **Abandoned vehicle**

(1) A person may not abandon a vehicle in, or place, throw or discard vehicle scrap upon any street or public place.

(2) When Council has been notified of an abandoned vehicle or vehicle scrap which has not been moved in at least thirty days, Council will make reasonable efforts to identify the owner of the vehicle or scrap, and when the owner has been identified, he or she may be ordered by Council to remove the vehicle or scrap within a specified time.
(3) Any vehicle or scrap, the ownership of which cannot be reasonably determined, or which has not been removed after being ordered to do so, may be removed by Council to an approved scrap yard or disposal facility.

(4) In the event that ownership has been determined, Council may recover the costs of the removal from the owner.

(5) Failure of the owner to remove the vehicle or scrap within the specified time constitutes an offence.

(6) Any vehicle or scrap removed by Council belongs to Council and may be dealt with as Council deems fit.

(7) A person who contravenes subsection (1) or fails to remove the vehicle or scrap when ordered to do so within the time specified in subsection (2) commits an offence.

56. Outside waste

(1) A person, excluding a person arriving in the municipality by ship or airplane from a place outside the RSA, wishing to dispose or process any outside waste in a municipal waste disposal or processing facility must in writing apply to Council for permission to do so and must submit the following information:

(a) Where the waste originated;
(b) the categories of waste to be considered;
(c) a description of the composition of the waste;
(d) the intended method of storage and transportation;
(e) the reason why the waste cannot be disposed of in the municipal area of origin; and
(f) any other information which Council may request regarding the nature of the waste and environmental impacts.

(2) Upon receipt and evaluation of an application Council may, upon written notice—

(a) accept the application as submitted and issue a permit;
(b) amend the application after review and consultation;
(c) attach conditions to the permit relative to the nature of the waste or threat to human health or the environment, including proof of insurance, spill prevention plans in the event of an accident during transportation or disposal; or
(d) if the disposal, processing or transportation of outside waste will create an undue impact on the environment or public health, or constitute a public nuisance, reject the application.

(3) Council may levy a surcharge for the disposal, processing or transportation of outside waste within municipal boundaries.

(4) A permit issued is valid for a period of 3 years or for such other period as Council may determine

(5) Council may revoke a permit issued under this section for failure to abide by the permit conditions.

(6) A person who contravenes a provision of subsection (1) commits an offence.

\section*{Part 9}
\textbf{Control of emergency incidents}

\section*{57. Definitions}

(1) In this section, unless the context otherwise indicates –

"environmental emergency" means an unexpected or sudden occurrence that may cause or has caused serious harm to human health or damage to the environment, regardless of whether the potential for harm or damage is immediate or delayed;

"incident" means an unexpected sudden occurrence, including a major emission, fire or explosion leading to serious danger to the public or potentially serious pollution of or detriment to the environment, whether immediate or delayed;

"responsible person" means a person who –

(a) is responsible for the incident;
(b) owns any hazardous substance involved in the incident;
(c) was in control of any hazardous substance involved in the incident at the time of the incident; or
(d) where the incident occurred in the course of that person’s employment, his or her employer.

\section*{58. Duties of responsible person}

(1) The responsible person must, after the incident has come to his or her knowledge immediately report, through the most effective means reasonably available, to the South African Police Services and the relevant fire prevention
service, Council, and all persons whose health may be affected by the incident – 

(a) the nature of the incident;
(b) any risks posed by the incident to public health, safety or property;
(c) the toxicity of substances or by-products released by the incident; and
(d) any steps that should be taken in order to avoid or minimise the effects of the incident on public health and the environment.

(2) The responsible person must as soon as reasonably practicable after the incident has come to his or her knowledge –

(a) take all reasonable measures to contain and minimise the effects of the incident, including its effects on the environment and any risks posed by the incident to the health, safety or property of persons;
(b) undertake clean-up procedures;
(c) remedy the effects of the incident; and
(d) assess the immediate and long-term effects of the incident on the environment and public health;

(3) The responsible person must within 14 days of the incident report to Council such information as is available to enable an initial evaluation of the incident, including –

(a) the nature of the incident;
(b) the substances involved and an estimation of the quantity released and their possible acute effect on persons and the environment and data needed to assess these effects;
(c) initial measures taken to minimise impacts;
(d) causes of the incident, whether direct or indirect, including equipment, technology, system, or management failure; and
(e) measures taken and to be taken to avoid a recurrence of such incident.

(4) A person who contravenes a provision of this section commits an offence.

59. **Directives by Council**

(1) Council may direct the responsible person to undertake specific measures within a specific time to fulfil his or her obligations under section 58, and for these purposes Council must, when considering any such measure or time period, have regard to the following:

(a) The principles set out in section 2;
(b) the severity of any impact on the environment as a result of the incident and the costs of the measures being considered;
(c) any measures already taken or proposed by the person on whom measures are to be imposed, if applicable;
(d) the desirability of the state fulfilling its role as custodian holding the environment in public trust for the people; and
(e) any other relevant factors.

(2) A verbal directive must be confirmed in writing within seven days.

(3) Should –
   (a) the responsible person fail to comply, or inadequately comply with a directive under subsection (1);
   (b) there be uncertainty as to who the responsible person is; or
   (c) there be an immediate risk of serious danger to the public or potentially serious detriment to the environment, Council may take the measures it considers necessary to –
      (i) contain and minimise the effects of the incident;
      (ii) undertake clean-up procedures; and
      (iii) remedy the effects of the incident.

(4) Council may claim reimbursement of all reasonable costs incurred by it in terms of subsection (3) from every responsible person jointly and severally.

(5) When Council has taken steps under subsection (3), Council must, as soon as reasonably practicable, prepare comprehensive reports on the incident, which reports must be made available through the most effective means reasonably available to –
   (a) the public;
   (b) the Director-General of the DWAF;
   (c) the South African Police Services and the relevant fire prevention service; and
   (d) all persons who may be affected by the incident.

(6) If a person has caused an environmental emergency, Council may order the person, orally or in writing, to comply immediately with the provisions of section 58, and the person must immediately comply with the provisions of section 58 irrespective of any right that the person may have, or may in the future have, at common law or under any other law to any relief of whatever nature.

(7) A person who contravenes a provision of subsection (3) or (6) or who does not comply with an order contemplated in subsection (6) commits an offence.
CHAPTER 6
LICENCES

Part 1
Licence to operate as waste collector

60. Waste collecting licence
    (1) For the purposes of these By-laws, no person may provide a commercial service as a waste collector within an area owned by or under control of Council unless he or she has first –
        (a) been registered by Council as a waste collector; and
        (b) obtained a licence from Council.

    (2) For the purposes of registration or obtaining a licence, a person must complete the required application form and submit the form and, where applicable, substantiating documentation to Council.

    (3) For the purposes of assessing an application, Council may require information additional to the information required on an application form.

    (4) After consideration of the application for a licence, Council may approve the application whereupon Council must issue a licence subject to conditions which Council may deem necessary.

    (5) Council must provide proof of registration and must –
        (a) detail the name, residential and postal address of the registered person, and if a company or close corporation, its registration number, names of its directors or members and the address of its registered head office;
        (b) describe the nature of the waste management services provided or intended to be provided;
        (c) specify the scope of the service, including –
            (i) the number of clients served or intended to be served at the time of registration;
            (ii) the geographical area of operation; and
            (iii) the disposal facilities owned or intended to be utilised for the disposal of waste collected.

    (6) A person who contravenes subsection (1) commits an offence.

61. Duties of licensee
(1) A licensee may not –
   (a) operate in contravention of the terms and conditions of his or her licence;
   (b) fail or refuse to give information, or give false or misleading information, when required to do so in terms of these By-laws;
   (c) fail to take all reasonable steps to prevent an act or an omission by an employee where the employee is or was acting on behalf of the licensee, when such an act or omission would constitute an offence if it were the act or omission of a licensee; or
   (d) dispose of waste otherwise than by disposing of it at a waste recovery facility which has been permitted for the disposal of this category of waste.

(2) Where a person has been registered, and –
   (a) the person acquires a firm providing commercial services;
   (b) the person merges with another person or firm providing commercial services;
   (c) there is a change in ownership of the enterprise;
   (d) there is a change in the juristic nature of the enterprise;
   (e) there is a change in the nature of the commercial services it provides;
   (f) the person intends to cease providing such services; or
   (g) the person is involved in winding-up proceedings; the person must immediately notify Council of that occurrence and, except in the circumstances set out in subsection (f) or (g), must re-register.

(3) A person who contravenes a provision of this section commits an offence.

62. **Supervision of licensee**

(1) An authorised official must –
   (a) inspect the activities of a licensee not less than twice a year, and is entitled to enter the workplace of a licensee for this purpose;
   (b) keep a register recording each inspection that has been undertaken.

(2) If a licensee is complying with these By-laws, the official may issue a licensee with a certificate confirming compliance, which certificate must state –
   (a) the name and residential and postal address of the licensee;
   (b) the time, date and scope of the inspection; and
   (c) any remarks which in the opinion of the authorised official may be relevant.

(3) If a licensee fails to obtain a certificate confirming compliance at three inspections over a period of two years, the authorised official may recommend
that Council review the licence, and should there be reasonable grounds, Council may revoke the licence.

63. Licence conditions, variation, revocation and suspension, transfer and payment of fees

The provisions of sections 65, with the necessary changes, and 68, 69, 70(1), 71 and 72 apply to a waste collector and a waste collecting licence.

Part 2

Licence to operate waste recovery facility or landfill site

64. Application for licence and registration

(1) No person may operate a waste recovery facility or landfill site within an area owned by or under control of Council unless he or she has first –

(a) been registered by Council as a commercial service provider; and

(b) obtained a licence from Council.

(2) For the purposes of registration or obtaining a licence, a person must complete the required application form and submit the form and, where applicable, substantiating documentation to Council.

(3) For the purposes of assessing an application, Council may require information additional to the information required on an application form.

(4) Council must consider each application for a licence and must have regard to the following:

(a) The financial, technical and managerial competency and experience of the applicant;

(b) the environmental, health and safety record of the applicant;

(c) the nature of the waste management service to be provided;

(d) that the person has, for any waste recovery facility or landfill site owned or to be owned by him or her appropriate property and liability insurance in accordance with an insurance programme approved by Council under the licence, which approval may not subject Council to any liability if the insurance programme proves inadequate;

(e) in the instance where a person is conducting another business activity which will not be regulated by the licence, that the business activity –

(i) does not conflict with or adversely affect the licensee's obligations under the licence, these By-laws or any other law; and
(ii) is separately accounted for; and

(f) any other relevant factors.

(5) After consideration of the application for a licence, Council may approve the application whereupon it must issue a licence subject to such conditions as it deems necessary.

(6) Council must provide proof of registration and must –

(a) detail the name, residential and postal address of the registered person, and if a company or close corporation, its registration number, names of its directors or members and the address of its registered head office;

(b) describe the nature of the waste management services provided or intended to be provided;

(c) specify the scope of the service, including –

(i) the number of clients served or intended to be served at the time of registration;

(ii) the geographical area of operation;

(iii) the actual or intended capital expenditure involved, or to be involved, in rendering the service; and

(iv) the disposal facilities owned or intended to be utilised for the disposal of waste collected or generated.

(7) A person who contravenes subsection (1) commits an offence.

65. Licence

A licence –

(a) must prescribe the payment of a licence fee which will be according to Council’s tariff regulations;

(b) must require the licensee to take reasonable steps to prevent his employees from committing any act or omission in the course of their employment that may cause harm to humans or damage to the environment;

(c) must require the licensee to ensure compliance with these By-laws and conditions by its employees, agents and sub-contractors, and to ensure that sub-contractors are licensed to store, collect, transport and dispose of any waste that they have been contracted to manage;

(d) must describe the geographical area of operation of the licensee;

(e) must specify the licence period and the procedure for any licence renewal;

(f) must specify the category or categories of waste the licensee may manage;
(g) is personal to the licensee and incapable of cession or assignment without the prior written consent of Council;

(h) is valid for the period stipulated in the licence, which period may not exceed five years, and may, upon application in terms of these By-laws, be renewed by Council for a further period;

(i) may be suspended or revoked by Council; and

(j) may contain any other term or condition that Council considers relevant.

66. Duties of licensee

(1) A licensee must keep monthly records in respect of the following:

(a) 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;

(b) emission levels where the licensee manages a licensed incinerator;

(c) any activity related to the achievement of local, provincial or national targets where such targets have been determined, including the results of monitoring such activity;

(d) any waste minimisation or recovery activities in which the licensee is involved;

(e) consumer supply figures; and

(f) complaints received by members of the public, and measures taken to address the cause and nature of the complaints.

(2) A licensee may not –

(a) cease operations at a waste recovery facility or landfill site without a closure plan approved by Council;

(b) abandon a waste recovery facility or landfill site;

(c) operate in contravention of the terms and conditions of his or her licence;

(d) fail or refuse to give information, or give false or misleading information when required to do so in terms of these By-laws;

(e) fail to take all reasonable steps to prevent an act or an omission by an employee where the employee is or was acting on behalf of the licensee, when such an act or omission would constitute an offence if it were the act or omission of a licensee;

(f) dispose of any medical waste otherwise than by incineration, unless prior consent has been obtained from Council; or
dispose of waste otherwise than by disposing of it at a waste recovery facility or landfill site which has been permitted for the disposal of this category of waste.

(3) Where –
   (a) a licensee acquires a firm providing commercial services;
   (b) a licensee merges with another person or firm providing commercial services;
   (c) there is a change in ownership of the enterprise;
   (d) there is a change in the juristic nature of the enterprise;
   (e) there is a change in the nature of the commercial services it provides;
   (f) a licensee intends to cease providing such services;
   (g) a licensee is involved in winding-up proceedings; or
   (h) a licensee increases its gross revenue or client base in excess of 25%, he or she must immediately notify Council of that occurrence and, except in the circumstances set out in subsection (f) or (g), must re-register.

(4) A person who contravenes any of the provisions of this section commits an offence.

67. Supervision of licensee

(1) An authorised official must –
   (a) inspect the workplace of a licensee not less than twice a year, and is entitled to enter the workplace of a licensee for this purpose; and
   (b) keep a register recording each inspection that has been undertaken.

(2) If a licensee is complying with these By-laws, the official may issue a licensee with a certificate confirming compliance, which certificate must state –
   (a) the name and residential and postal address of the licensee;
   (b) the name and address of the waste recovery facility or landfill site;
   (c) the time, date and scope of the inspection; and
   (d) any remarks which in the opinion of the authorised official may be relevant.

(3) If a licensee fails to obtain a certificate confirming compliance at three inspections over a period of two years, the authorised official may recommend that Council review the licence, and should there be reasonable grounds, Council may revoke the licence.

68. Variation of licence

(1) While a licence is in force, Council may modify –
(a) on its own initiative, the conditions of the licence to an extent which is desirable and is unlikely to require unreasonable expense on the part of the licensee;

(b) the conditions of the licence to the extent which is required for the purpose of ensuring that the activities authorised by the licence do not cause pollution of the environment or harm to human health; or

(c) on the application of the licensee accompanied by the prescribed tariff payable under section 5, modify the conditions of the licence to the extent requested in the application.

(2) Any modification of a licence shall be effected by notice served on the licensee and the notice must state the time at which the modification is to take effect.

(3) If within the period of two months beginning with the date on which Council received an application by the licensee for a modification of it, or within such longer period as Council and the licensee may at any time agree in writing, Council has neither granted a modification of the licence in consequence of the application, nor given notice to the licensee that Council has rejected the application, Council shall be deemed to have rejected the application.

(4) A person who contravenes a modification as contemplated in this section, commits an offence.

69. Revocation and suspension of licence

(1) Where a licence is in force and it appears to Council that –

(a) the licensee has ceased to be a fit and proper person by reason of his or her having been convicted of an offence under these By-laws; or

(b) the continuation of the activities authorised by the licence would cause pollution of the environment or harm to human health or would be seriously detrimental to the amenities of the locality affected; and

(c) the pollution, harm or detriment cannot be avoided by modifying the conditions of the licence, Council may revoke, entirely or partially, or suspend the licence in so far as it authorises the carrying on of the activities specified in the licence or such of them as Council specifies, and where the licence is revoked, may specify the requirements imposed by the licence, which requirements are to continue to bind the licensee.

(2) A revocation or suspension of a licence or requirement imposed during the suspension of a licence must be effected by notice served on the licensee, and the notice must state the time at which the revocation or suspension or the
requirement is to take effect, and in the case of suspension, the period at the end of which, or the event on the occurrence of which, the suspension is to cease

(3) A licence which has been revoked ceases to have effect to authorise the carrying on of the activities specified in the licence or, as the case may be, the activities specified by Council in revoking the licence but does not affect the requirements imposed by the licence which Council, in revoking the licence, specify as requirements which are to continue to bind the licensee, and a person who fails to comply with any requirement imposed commits an offence.

(4) A licence which has been suspended is, while the suspension has effect, of no effect to authorise the carrying on of the activities specified in the licence, or, as the case may be, the activities specified by Council in suspending the licence, and a person who fails to comply with any requirement imposed commits an offence.

(5) Where a licence is suspended, Council, in suspending it or at any time while it is suspended, may require the licensee to take such measures to deal with or avert the pollution or harm as Council deems necessary.

70. **Surrender of licence**

(1) A licensee may surrender a licence to Council.

(2) The following provisions apply to the surrender and acceptance of the surrender of a licence:

   (a) The licensee who desires to surrender it must apply for that purpose to Council in such form, giving such information and accompanied by such evidence as Council prescribes by regulations and accompanied by the prescribed tariff payable under section 5.

   (b) Council –

      (i) must inspect the land to which the licence relates;

      (ii) may require the licensee furnish to it further information or further evidence; and

   (c) must determine whether it is likely or unlikely that the condition of the land, so far as that condition is the result of the use of the land for the treatment, keeping or disposal of waste (whether or not in pursuance of the licence), will cause pollution of the environment or harm to human health.

(3) If the condition of the land is unlikely to cause the pollution or harm, Council may accept the surrender.
(4) Where Council accepts the surrender of a licence, Council will issue to the applicant, with the notice of its determination, a certificate (a "certificate of completion") stating that Council is satisfied that the condition of the land is unlikely to cause pollution or harm and, on the issue of that certificate, the licence will cease to have effect.

(5) If within the period of three months beginning with the date on which Council receives an application to surrender a licence, or within such longer period as Council and the applicant may at any time agree in writing, Council has neither issued a certificate of completion nor given notice to the applicant that Council has rejected the application, Council shall be deemed to have rejected the application.

71. **Transfer of licence**

(1) A licence may be transferred to another person in accordance with subsections (2) to (6) and may be so transferred whether or not the licence is partly revoked or suspended under any provision of this Part.

(2) Where the licensee desires that the licence be transferred to another person ("the proposed transferee") the licensee and the proposed transferee must jointly make an application to Council for a transfer of it.

(3) An application must be made in the form prescribed by Council and must include any information which Council requires, and must be accompanied by the prescribed tariff payable under section 5, and the licence.

(4) If the proposed transferee is a fit and proper person, Council will effect a transfer of the licence to the proposed transferee, and the licence will be endorsed with the name and other particulars of the proposed transferee as licensee from such date specified in the endorsement as may be agreed with the applicants, and for the purpose of establishing if the proposed transferee is a fit an proper person, the provisions of section 64(4) apply.

(5) If within the period of two months beginning with the date on which Council receives an application for the transfer of a licence, or within such longer period as Council and the applicants may at any time agree in writing, Council has neither effected a transfer of the licence nor given notice to the applicants that Council has rejected the application, Council shall be deemed to have rejected the application.

72. **Payment of fees**
If a licensee had failed to pay a charge due in consideration of the subsistence of the licence, Council may, by notice in writing served on the licensee, revoke the licence so far as it authorises the carrying on of the activities specified in the licence.

CHAPTER 7
COMPLIANCE AND ENFORCEMENT

73. Notice of compliance and representations

(1) A notice of compliance must state –
(a) the name and residential or postal address of the person;
(b) the requirement which has not been complied with;
(c) in detail the measures required to remedy the situation;
(d) that the person must within a specified period take the measures to comply with the notice and to complete the measures before a specified date; and
(e) that the person may within 14 days make written representations in the form of a sworn statement or affirmation to the Council at a specified place.

(2) The Council, when considering any measure or period envisaged in subsection (1)(c) or (d), must have regard to the principles and objectives of these By-laws, the nature of the non-compliance, and other relevant factors.

(3) Where a person does not make representations in terms of subsection (1)(e), and the person fails to take the measures before the date contemplated in subsection (1)(d), he or she commits an offence, and the Council may, irrespective of any penalty which may be imposed under section 83, act in terms of subsection (5).

(4) (a) Representations not lodged within the time contemplated in subsection (1)(e) will not be considered, except where the person has shown good cause and the Council condones the late lodging of the representations.
(b) The Council must consider the timely representations and any response thereto by an authorized official.
(c) The Council may, on its own volition, conduct any further investigations to verify the facts if necessary, and the results of the investigation must be made available to the permit holder, who must be given an opportunity of making a further response if he or she so wishes, and the Council must also consider the further response.
(d) The Council must, after consideration of the representations and any response and further response make an order in writing and serve a copy of it on the person, which order must confirm, in whole or in part, alter, or set aside the notice of compliance, and where the notice of compliance is confirmed, in whole or in part, or altered, the Council must inform the person that he or she must, within the period specified in the order, discharge the obligations set out in the order and that failure to do so constitutes an offence.

(e) Where a person fails to discharge the obligations contemplated in subsection (4)(d), he or she commits an offence and the Council may, irrespective of any penalty which may be imposed under section 83, act in terms of subsection (5).

(5) The Council may take such measures as it deems necessary to remedy the situation, and the cost thereof must be paid to the Council in accordance with section 74.

74. Costs

(1) Should a person fail to take the measures required of him or her by a notice of compliance contemplated in section 73, the Council may, subject to subsection (3) recover, as a debt, and in accordance with Council’s debt collection regulations, all costs incurred as a result of it acting in terms of section 73(5) from that person and any or all of the following persons:

   (a) The owner of the land, building or premises; or
   (b) the person or occupier in control of the land, building or premises or any person who has or had a right to use the land at the time when the situation came about.

(2) The costs recovered must be reasonable and may include, without being limited to, costs relating to labour, water, equipment, administrative and overhead costs incurred by the Council under section 73(5).

(3) If more than one person is liable for costs incurred, the liability must be apportioned as agreed among the persons concerned according to the degree to which each was responsible for the emergency resulting from their respective failures to take the required measures.
75. **Authentication and service of notices and other documents**

(1) A notice issued by the Council in terms of these By-laws is deemed to be duly issued if it is signed by an authorised official.

(2) Any notice or other document that is served on a person in terms of these By-laws is regarded as having been duly served –

(a) when it has been delivered to that person personally;

(b) when it has been left at that person’s place of residence or business in the Republic with a person apparently over the age of 16 years;

(c) when it has been posted by registered or certified mail to that person’s last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;

(d) if that person’s address in the Republic is unknown, when it has been served on that person’s agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);

(e) if that person’s address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the land or business premises to which it relates;

(f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of the body corporate; or

(g) when it has been delivered, at the request of that person, to his or her e-mail address.

(3) Service of a copy is deemed to be service of the original.

(4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

76. **Legal documents and steps valid under certain circumstances**

(1) A notice, or an authorisation, permit or other document, purportedly made or issued in terms of these By-laws or a specific environmental management Act –

(a) which does not comply with a procedural requirement of the relevant Act, is nevertheless valid if the non-compliance is not material and does not prejudice any person; or

(b) may be amended or replaced without following a procedural requirement of the relevant Act if –
(i) the purpose is to correct an error; and
(ii) the correction does not change the rights and duties of any person materially.

(2) The failure to take any steps in terms of these By-laws or a specific environmental management Act as a prerequisite for any decision or action does not invalidate the decision or action if the failure –
(a) is not material;
(b) does not prejudice any person; and
(c) is not procedurally unfair.

77. Security for release of vehicles, vessels or aircraft

(1) If a vehicle, vessel or aircraft is seized in terms of section 16(1)(b) for the purposes of criminal proceedings, the owner or agent of the owner may at any time apply to a court for the release of the vehicle, vessel or aircraft.

(2) A court may order the release of a vehicle, vessel or aircraft on the provision of security determined by the court.

(3) The amount of the security must at least be equal to the sum of –
(a) the market value of the vehicle, vessel or aircraft;
(b) the maximum fine that a court may impose for the alleged offence; and
(c) costs and expenses incurred or reasonably foreseen to be incurred by the state in connection with prosecuting the offence.

(4) If the court is satisfied that there are circumstances which warrant a lesser amount of security, it may order the release of the vehicle, vessel or aircraft subject to the provision of security for such lesser amount.

78. Award of part of fine recovered to informant

(1) A court which imposes a fine for an offence in terms of these By-laws may order that a sum of not more than one fourth of the fine, be paid to the person whose evidence led to the conviction or who assisted in bringing the offender to justice.

(2) A person in the service of the municipality is not entitled to such an award.

79. Cancellation of permits and forfeiture of items

The court convicting a person of an offence involving a restricted activity, may –

(a) withdraw any permit or other authorisation issued in terms of these By-laws to that person, if the rights conferred by the permit or authorisation were abused by that person;
(b) disqualify that person from obtaining a permit or other authorisation for a period not exceeding five years;
(c) declare any specimen, container, vehicle, vessel, aircraft, document or other item that was used for the purpose of or in connection with commission of the offence and was produced to the court, to be forfeited to the state, unless the court is satisfied that –
   (i) the convicted person at the time of the commission of the offence was not the owner of the item; and
   (ii) the owner was unable to prevent the use of the item by the convicted person; and
(d) issue an order that all competent authorities authorised to issue permits be notified of any disqualification in terms of paragraph (b).

80. Appeal
(1) A person whose rights are affected by a decision of an officer, may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
(2) The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4)
(3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
(4) When the appeal is against a decision taken by -
   (a) a staff member other than the municipal manager, the municipal manager is the appeal authority
   (b) the Municipal manager, Mayor is the appeal authority or
   (c) a political structure or political office bearer, or a councillor, Municipal Council is the appeal authority
(5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time

81. Limitation of liability
Council is not liable for any damage or loss caused by –
(a) the exercise of any power or the performance of any duty in good faith under these By-laws; or
(b) the failure to exercise any power, or perform any function or duty in good faith under these By-laws.

82. Waivers

(1) Council may waive compliance with or permit deviations, exceptions and exemptions from any provisions of these By-laws subject to such conditions as it may deem fit.

(2) Council shall serve a written notice which is signed by the waste management officer upon the person, and the notice must cite –
   (a) the provision that was waived or relaxed; and
   (b) the extent to which it has been waived.

(3) Council will keep a record which contains a copy of the notice, and the public may, at all reasonable hours, inspect this record at the offices of Council.

(4) A person whose rights are adversely affected by the waiver or relaxation is not bound thereby.

83. Penalties

A person who has committed an offence in terms of these By-laws is, on conviction, and subject to penalties prescribed in any other law, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

84. Savings and transitional

(1) An owner or occupier of premises on which industrial waste is generated on or before the effective date of these By-laws –
   (a) is granted interim permission to continue transporting and disposing of the waste in the manner utilized prior to the effective date of these By-Laws;
   (b) must, within ninety days after the effective date of these By-laws, comply with the provisions of these By-laws.

(2) (a) A permit issued by Council for the transportation or disposal of industrial waste remains in effect for a period of five years.
(b) Any significant change in the volume or nature of the waste during the permit period requires written notification to Council by the person generating the waste.

(c) Council reserves the right to alter the permit conditions and requirements during the five year permit period, and to adjust the tariff based on documented increases of Council’s cost to transport or dispose of the waste.

(3) A person who contravenes subsection (1)(b) or (2)(b) or who contravenes a permit condition contemplated in subsection (2)(c) commits an offence.

85. Consolidation of by-laws, adoption of standards, guidelines, regulations, codes, instructions, specifications or administrative procedures, enactment of new by-laws, and resolutions

(1) Any by-laws relating to the main objects of these By-laws must be maintained by Council in consolidated form together with these By-laws, and must be made available to the public on request.

(2) Council may adopt wholly or in part or with modifications any rules, standards, guidelines, regulations, codes, instructions, specifications or administrative procedures prescribed by any Department either as in force at the time of prescription or publication or as amended form time to time thereafter.

(3) Additional by-laws may be enacted by Council relating to any aspect of the waste stream.

(2) Council may adopt additional by-laws on any one or more of the waste management activities specified in section 23 including, but not limited to –

(a) the general conditions and provisions relating to the management of waste;

(b) specific conditions and provisions relating to the management of each category of waste;

(c) incentives that may be given to different categories of persons within the waste stream, and conditions under which incentives will be given;

(d) targets which must be met; and
(e) initiatives regarding the implementation and enforcement of waste minimisation, and which may include conditions and provisions relating to, but not limited to –

(i) the quantities of waste that will be collected and the times when the waste will be collected;
(ii) which premises, for reasons of health, safety and environmental protection require waste management services more frequently than the regular collection service;
(iii) 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;
(iv) the 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 these By-laws;
(v) collection services;
(vi) categories of waste be disposed of at a particular depot or disposal site;
(vii) types of waste which are generated by the occupier of any premises and which are recyclable waste, and the conditions for their storage or collection; and
(viii) waste items that are unsuitable for collection.

(3) Council may, subject to the provisions of these By-laws and any other legislation, by resolution provide for the establishment, funding, and general administration of and any other matters relating to any existing or new waste recovery facilities, garden waste facilities, transfer stations, landfill sites or any other waste collection or processing points or facilities.

86. Short title and commencement
These By-laws may be cited as the Walter Sisulu Local Municipality Waste Management By-laws and will commence on a date determined by Council.