

11.5.3	<b>REQUEST FOR INTRODUCTION OF STELLENBOSCH MUNICIPALITY DRAFT BY-LAW ON INTEGRATED WASTE MANAGEMENT</b>
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Collaborator No: 696777  
IDP KPA Ref No: Good Governance and Compliance  
Meeting Date: 05 November 2020

**1. SUBJECT: REQUEST FOR INTRODUCTION OF STELLENBOSCH MUNICIPALITY  
DRAFT BY-LAW ON INTEGRATED WASTE MANAGEMENT**

**2. PURPOSE**

That Council adopts the By-Law on Integrated Waste Management as per Section 12 of the Municipal Systems Act, as amended.

**3. DELEGATED AUTHORITY**

Municipal Council, as per Section 12 of the Municipal Systems Act, as amended. However the Mayor may request the Portfolio Committee to render assistance in terms of Section 80 of the Local Government Municipal Structures Act, Act 117 of 1998, as amended.

**4. EXECUTIVE SUMMARY**

The By-Law (**ANNEXURE A**) gives effect to the rights contained in Section 24 of the Constitution, Schedules 4(B) & 5(B) supported by Section 11 of the Local Government Municipal Systems Act 200 (Act 32 of 2000), where, a Local Government may proclaimate By-Laws to govern the services that is delivered to the constituencies of the Republic of South Africa.

As the functions of Cleansing, Refuse Removal, Refuse Dumps and Solid Waste Disposal falls within the jurisdiction of the Municipality, the Council may define and regulate, activities and functions on any matters pertaining the above and abbreviated as Integrated Waste Management

The By-Law on Integrated Waste Management aims to promote a safe environment for the benefit of all within Waste management and to give effect to the right contained in section 24 of the Constitution of the Republic of South Africa, 1996 and to regulate

- the avoidance, minimisation, generation, collection, cleaning and disposal of waste; and
- matters related thereto.

Council has noted the draft By-law and that it would be circulated for public comment. The public commenting period was between 14 September 2020 until 14 October 2020 (**ANNEXURE B**). The public was notified with an advertisement that was placed in the media "Die Burger" and on the Municipal website. No comments or objections were received.

This report serves to request that the new Integrated Waste Management By-Law be adopted by Council and that it be published in the provincial gazette.

**5. RECOMMENDATIONS**

- (a) that the By-Law on Integrated Waste Management, attached as **ANNEXURE A**, be adopted as per Section 12(2) to 12(4) & 13 of the Municipal Systems Act, as amended; and

- 
- (b) that the adopted By-Law be sent to Provincial Government to be published in the provincial gazette.

## 6. DISCUSSION / CONTENTS

### 6.1 Background

Stellenbosch Municipality's does not have a By-Law on Integrated Waste Management

The Directorate Infrastructure Service has created this new By-Law on Integrated Waste Management. Aspects of older ordinances and new legislation has also been incorporated into the draft By-Law. The By-Law also incorporates all the facets of Waste Management which includes:

- a. Waste Collections
- b. Waste Removal,
- c. Area Cleaning
- d. Waste Minimisation
- e. Refuse Dump Management.

### 6.2 Discussion

Since no previous By-Law existed for any part of Waste management, a By-Law was created afresh but utilising the following source documents:

- a. Model Integrated Waste Management By-law (Mr Hendricks)
- b. City of Cape Town: Integrated Waste Management By-law, 2009
- c. Optimization of Waste Management Collection Operations Draft Report
- d. Adjusted version of City of Cape Town: Integrated Waste Management By-law.

By-Laws and Policies were reviewed and assessed. Comparative reviews of a number of By-Laws, promulgated by other Municipalities (relating to Integrated Waste Management) were also carried out.

Comparative review of by-laws relating to IWM in other South African municipal jurisdictions to identify relevant subject matter to be was incorporated.

Optimization of Waste Management Collection Operations Draft Report was analysed, relevant sections incorporated, new sections drafted, and amendments made.

All of the above were correlated with the National Environmental Management: Waste Act (NEMWA), 2008 (Act 59 of 2008);

The By-Law was further aligned to section 152 of the Constitution, section 13 of Local Government: Municipal Systems Act 32 of 2000, Consumer Protection Act 68 of 2008, and other documents as provided.

Along with improving safety for all making use of the Integrated Waste Management Service, the By-Law defines and regulates functions and activities which are allowable, prohibits activities that are hazardous to users and damaging to Municipal infrastructure, and empowers the Municipality to act on infringements within the total Integrated Waste Management arena.

### 6.3 Financial Implications

None

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**6.4 Legal Implications**

The new By-Law may reduce Municipal liabilities (third party claims) as it allows for more effective control of activities within Integrated Waste Management

Section 12 & 13 of the Municipal Systems Act

**“12. *Legislative procedures.*—(1) Only a member or committee of a municipal council may introduce a draft by-law in the council.**

- (2) *A by-law must be made by a decision taken by a municipal council—*
  - (a) *in accordance with the rules and orders of the council; and*
  - (b) *with a supporting vote of a majority of its members.*
- (3) *No by-law may be passed by a municipal council unless—*
  - (a) *all the members of the council have been given reasonable notice; and*
  - (b) *the proposed by-law has been published for public comment in a manner that allows the public an opportunity to make representations with regard to the proposed by-law.*
- (4) *Subsections (1) to (3) also apply when a municipal council incorporates by reference, as by-laws, provisions of—*
  - (a) *legislation passed by another legislative organ of state; or*
  - (b) *standard draft by-laws made in terms of section 14.*

**13. *Publication of by-laws.*—A by-law passed by a municipal council—**

- (a) *must be published promptly in the Provincial Gazette, and, when feasible, also in a local newspaper or in any other practical way to bring the contents of the by-law to the attention of the local community; and*
- (b) *takes effect when published or on a future date determined in or in terms of the by-law.”*

**6.5 Staff Implications**

None

**6.6 Previous / Relevant Council Resolutions:**

**37<sup>TH</sup> COUNCIL MEETING: 2020-08-24: ITEM 11.5.4**

**RESOLVED** (nem con)

- (a) that the content of this report be noted;
- (b) that the Draft By-Law on Integrated Waste Management, attached as **ANNEXURE A**, be accepted as per Section 12(1) of the Municipal Systems Act, as amended; and
- (c) that a Public Participation process be launched as per Section 12(3)(b) and Section 21 of the Municipal Systems Act.

**6.7 Risk Implications**

None

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**RECOMMENDATIONS FROM INFRASTRUCTURE SERVICES COMMITTEE MEETING TO THE EXECUTIVE MAYOR: 2020-11-05: ITEM 5.1.5**

- (a) that the By-Law on Integrated Waste Management, attached as **ANNEXURE A**, be adopted as per Section 12(2) to 12(4) & 13 of the Municipal Systems Act, as amended;
- (b) that Council notes that a public participation process was followed and no comments or objections were received; and
- (c) that the adopted By-Law be sent to Provincial Government to be published in the provincial gazette.

**ANNEXURES**

Annexure A: By-Law on Integrated Waste Management.

Annexure B: Notice published in Die Burger 14 September 2020

**FOR FURTHER DETAILS CONTACT:**

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<b>REPORT DATE</b>	

[STELLENBOSCH MUNICIPALITY.]

[DATE OF COMMENCEMENT: XXXXX.]

This By-Law

was published by *Provincial Gazette* No. \_\_\_\_ dated \_\_\_\_.

STELLENBOSCH MUNICIPALITY

BY-LAW RELATING TO INTEGRATED WASTE MANAGEMENT DRAFT  
APPROVED BY COUNCIL ON XXX

AND

PROMULGATED IN TERMS OF SECTION 11 OF THE LOCAL GOVERNMENT:  
MUNICIPAL SYSTEMS ACT, 2000 (ACT 32 OF 2000)

STELLENBOSCH MUNICIPALITY INTEGRATED WASTE MANAGEMENT DRAFT BY-LAW  
(2020)

To give effect to the right contained in section 24 of the Constitution of the Republic of South Africa, 1996 and to regulate —

- the avoidance, minimisation, generation, collection, cleaning and disposal of waste; and
- matters related thereto.

Under the provisions of sections 156 (2) of the Constitution of the Republic of South Africa, 1996, and section 11 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) the Stellenbosch Municipality enacts as follows:

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## PREAMBLE

WHEREAS the Municipality has under the Constitution legislative competence in respect of refuse removal, refuse dumps and solid waste disposal;

Whereas the Stellenbosch Municipality has an obligation to regulate and control waste management so as to ensure a safe, healthy and sustainable environment and to ensure that the rights of individuals are protected;

Whereas the Municipality wishes to reduce the generation and the environmental impact of waste to ensure that the socio-economic development, the health of the people within the Municipality's boundaries and the quality of environmental resources are not unduly adversely affected by waste;

Whereas the Municipality wants to ensure that all residents, organisations, institutions, businesses, visitors, tourists and government departments are able to access services from a legitimate waste management service provider; and

Whereas the Municipality wishes to regulate waste generation, cleaning, collection, separation, storage, processing, treatment, recycling, re-use and disposal of waste, including littering and illegal dumping and the regulation of facilities used for the management of waste, with the ultimate aim of avoiding or minimising the generation of waste.

BE IT ENACTED by the Municipality, as follows: —

**1. Definitions.** —In this By-law, words used in the singular includes the plural and vice versa, the English text shall prevail in the event of an inconsistency between the different texts, and, unless the context otherwise indicates, —

**“accredited service provider”** means a person or entity accredited by the Municipality in accordance with its guidelines published from time to time and who provides a waste management service in the municipal area and may include, but is not limited to waste managers, large and small business, entrepreneurs, community cooperatives, and venture learnerships;

**“building waste”** means waste produced through the construction, alteration, repair or demolition of any structure both manmade and natural, and —

- (a) includes rubble, earth, wood and rock that is displaced during any construction, alteration, repair or demolition; but
- (b) excludes garden waste and hazardous waste;

**“bulky waste”** means waste that by virtue of its mass, shape, size or quantity is inconvenient to remove by the routine door-to-door waste removal service provided by the Municipality or a service provider;

**“business waste”** means —

- (a) waste that emanates from premises that are used, whether lawfully or unlawfully mainly, for commercial, retail, wholesale, entertainment or government administration purposes; and
- (b) also includes waste generated by informal traders and residential premises where commercial activities are being conducted;

**“chemical waste”** includes discarded solid, liquid and gaseous chemicals;

**“Director”** means the Director responsible for solid waste management in the Municipality;

**“disposal”** means the burial, deposit, discharge, abandoning, dumping, placing or release of any waste into, or onto, any land;

**“dump”**—

- (a) includes the —
  - (i) disposal of waste in any manner other than one permitted by this By-law or any other law; and
  - (ii) without derogating from the generality of the foregoing, the —
    - (aa) deposit;
    - (bb) discharge;
    - (cc) spill; or
    - (dd) releaseof waste, whether the said waste is in a container or receptacle or not, in or at any place whether publicly or privately owned, including but not limited to vacant land, rivers, waterways, catchments, and sewage and storm water systems, but
- (b) excludes littering;

**“event waste”** means waste that originates from the activities related to an event that is held in the Municipality;

**“garden waste”** —

- (a) refers to —
  - (i) organic waste, including but not limited to, soil, grass cuttings, leaves and branches; and
  - (ii) any biodegradable material, which emanates from gardening, landscaping or other types of activities at residential, business or industrial properties; but
- (c) excludes waste products of animal origin;

**“general waste”** is a generic term for waste that, because of its composition and characteristics, does not pose an immediate risk to public health or the environment if managed properly, and includes residential waste, building waste, business waste, and any waste classified as non-hazardous waste in terms of national or provincial legislation;

**“genotoxic waste”** means highly hazardous waste —

- (a) that may have mutagenic, teratogenic or carcinogenic properties; and
- (b) includes certain cytostatic drugs as well as vomit, urine or faeces from patients treated with cytostatic drugs, chemicals and radioactive material;

**“Government Gazette”** means the Government Gazette of the Republic of South Africa;

**“hazardous waste”** means —

- (a) any waste that contains organic or inorganic elements or compounds that may, owing to the inherent physical, chemical or toxicological characteristics of that waste, have a detrimental impact on human health, the health of other living organisms and the environment; and
- (b) includes —
  - (i) health care risk waste; and
  - (ii) the hazardous substances, materials or objects within business waste, residue deposits and residue stockpiles;

**“health care risk waste”** means —

- (a) that portion of health care waste that is hazardous including infectious waste, pathological waste, sharp waste, pharmaceutical waste, genotoxic waste, chemical waste, waste with heavy metals, radioactive waste, and
- (b) any other health care waste that is defined as hazardous in terms of the Western Cape Health Care Waste Management Act, 2007 (Act 7 of 2007) read with applicable national legislation;

**“holder of waste”** means —

- (a) any person who imports, generates, stores, accumulates, transports, processes, treats, exports or disposes of waste; and
- (b) includes recyclers and scrap dealers;

**“industrial waste”** means waste emanated from the manufacturing, industrial, fabricating or operational processes on premises that are used wholly or mainly for —

- (a) industrial purposes;
- (b) agricultural activities;
- (c) mining activities; or
- (d) the operation of power stations;

**“infectious waste”** means waste that is suspected to contain pathogens in a sufficient concentration or quantity to cause disease in susceptible hosts, and includes —

- (a) cultures and stocks of infectious agents from laboratory work;
- (b) waste from surgery and autopsies on corpses with infectious diseases;
- (c) waste from infected patients in isolation wards;
- (d) waste that has been in contact with —
  - (i) infected patients undergoing haemodialysis,
  - (ii) infected animals from laboratories, sanitary waste materials and tissues including swabs; and

any other instruments or materials that have been in contact with infected persons or materials;

**“integrated waste management plan”** means an integrated waste management plan that is required by the Municipality in terms of this By-law or any other applicable legislation;

**“licenced waste disposal facility”** means any site or premise which is licenced by the Province of the Western Cape or the National Government and used for the accumulation of waste for the purpose of disposing of that waste at that site or on that premise;

**“litter”** means waste, excluding hazardous waste, that has been thrown, dropped, deposited, spilled or in any other way discarded somewhere other than in an assigned receptacle, and “littering” has a corresponding meaning;

**“minimisation”**, when used in relation to waste, means the avoidance of the amount and toxicity of waste that is generated and, in the event where waste is generated, the reduction of the amount and toxicity of waste that is disposed of;

**“Minister”** means a minister in the Province appointed as such by the Premier of the Province in accordance with the provisions of section 35 of the Constitution of the Western Cape, 1998 (Act 1 of 1998) read with section 125 of the Constitution of the Republic of South Africa, 1996;

**“municipal area”** means the area of jurisdiction of the Municipality as determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act 27 of 1998);

**“municipal manager”** means a person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

**“Municipal Systems Act”** means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

**“Municipality”** means the Stellenbosch Municipality established by Provincial Notice No. 489 of 2000 in *Provincial Gazette* 5590 of 22 September 2000 as amended from time to time, or its successors in title;

**“National Building Regulations”** refers to the regulations made in terms of section 17(1) of the National Building Regulations and Building Standards Act, 1977 (Act 107 of 1977) as published in Government Notice R2378 of 1990 in *Government Gazette* 12780 dated 12 October 1990;

**“National government”** means the national sphere of government as established by the Constitution of the Republic of South Africa, 1996, and “national” has a corresponding meaning;

**“National Minister”** means a minister in the national sphere of government appointed as such by the President of the Republic of Africa in accordance with section 85 of the Constitution of the Republic of South Africa, 1996;

**“NEM:WA”** means the National Environmental Management: Waste Act, 2008 (Act 59 of 2008);

**“nuisance”** means any damage, inconvenience or annoyance to a person caused by the improper generation, handling, management, storage, placement, collection, transport or disposal of waste, including littering;

**“organ of state”** has the meaning assigned to it in section 239 of the Constitution of the Republic of South Africa, 1996;

**“owner”** includes any of the following:

- (a) the person in whom is vested the legal title to the premises, lessee, resident, director of a company, member of a close corporation, the person in control of any premises;
- (b) any person who obtains a benefit from the premises or is entitled thereto; and
- (c) the person administering an estate as curator, executor, proxy, trustee or administrator of a person in whom the legal title in immovable property is vested and who is insolvent, dead or of unsound mind;

**“pathological waste”** includes all human and animal tissues, organs, body parts, foetuses, blood and bodily fluids;

**“peace officer”** has the meaning assigned to it in the Criminal Procedure Act, 1977 (Act 51 of 1977);

**“person”** has the meaning assigned to it in the Interpretation Act, 1957 (Act 33 of 1957), and includes any —

- (a) organ of state;
- (b) company incorporated or registered as such under any law; and
- (c) body of persons corporate or unincorporate;

**“pharmaceutical waste”** includes expired, unused, spilt and contaminated pharmaceutical products, drugs, vaccines and sera that are no longer required and that need to be disposed of appropriately;

**“pressurised container waste”** includes pressurised cylinders and cartridges used in health care facilities to store gases;

**“priority waste”** means a waste declared to be such –

- (a) in terms of section 14 of NEM:WA; and
- (b) by the Director in terms of this By-law, national or provincial legislation;

**“Provincial Gazette”** means the official gazette of the Western Cape Province contemplated in section 33(1) of the Constitution of the Western Cape, 1998 (Act 1 of 1998);

**“Province”** means the Province of the Western Cape as established by the Constitution of the Republic of South Africa, 1996, and “provincial” has a corresponding meaning;

**“public road”** has the meaning assigned to it in the National Road Traffic Act, 1996 (Act 93 of 1996);

**“radioactive waste”** includes —

- (a) solid, liquid and gaseous materials contaminated with radionuclides,
- (b) waste produced as a result of procedures such as —
  - (i) in vitro analysis of body tissue and fluid,
  - (ii) in vivo organ imaging and tumour localization; and
  - (iii) various investigative and therapeutic practices;

**“receptacle”** means a container approved by the Municipality and having the capacity for the temporary storage of waste;

**“recyclable materials”** means any material that can be converted into raw or another form of material that can be re-used to make new products or resources;

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

**“residential waste”** means waste, that emanates from premises used wholly or mainly for residential, educational, healthcare, sport or recreational purposes, and —

- (a) includes recyclable materials and non-recyclable material; and
- (b) excludes hazardous waste;

**“re-use”** means to utilise the whole, a portion of or a specific part of any substance, material or object from the waste stream for a similar or different purpose without changing the form or properties of such substance, material or object;

**“SANS”** means a South African National Standard, issued by the South African Bureau of Standards, in terms of applicable law;

**“sharp waste”** includes items that could cause cuts or puncture wounds and includes, but is not limited to, needles, hypodermic needles, scalpels and other blades, knives, infusion sets, saws, broken glass and nails, and the word “sharp” has a corresponding meaning;

**“storage”** means the accumulation of waste in a manner that does not constitute treatment or disposal of that waste;

**“Tariff Policy and Tariff By-Law”** means the Tariff Policy and Tariff By-Law adopted by the Council of the Municipality and published in the *Provincial Gazette* from time to time;

**“transit”** means the continuous passage from one municipal boundary of the Municipality to another such boundary of the Municipality without storage other than temporary storage incidental to transport;

**“treatment”** means any method, technique or process that is designed to —

- (a) change the physical, biological or chemical character or composition of waste; or
- (b) remove, separate, concentrate or recover a hazardous or toxic component of waste; or
- (c) destroy or reduce the toxicity of a waste,

in order to minimise the impact of the waste on human health, the health of other living organisms, or the environment, prior to further use or disposal;

**“waste”—**

(a) means any substance, material or object that is —

- (i) unwanted, rejected, abandoned, discarded or disposed of; or
- (ii) intended or required to be discarded or disposed of by the holder of that substance, material or object, whether or not such substance, material or object can be re-used, recycled or recovered; and includes all wastes as defined in Schedule 3 to NEM:WA; and

(b) includes the following categories:

- (i) building waste;
- (ii) business waste;
- (iii) bulky waste;
- (iv) event waste;
- (v) infectious waste;
- (vi) garden waste;
- (vii) general waste;
- (viii) genotoxic waste;
- (ix) hazardous waste;
- (x) health care risk waste;
- (xi) residential waste;
- (xii) industrial waste;
- (xiii) pressurised container waste;
- (xiv) pathological waste;
- (xv) pharmaceutical waste;
- (xvi) radioactive waste;
- (xvii) recyclable waste;
- (xviii) residential waste;
- (xix) waste with heavy metals;
- (xx) all wastes as defined in the NEM:WA; and
- (xxi) any other substance, material or object that is not included in the NEM:WA that the Minister, in accordance with section 69(1)(a) of NEM:WA, may define as a waste by Notice in the *Government Gazette*:

Provided that any waste, or portion thereof, contemplated in subparagraphs (a) and (b), ceases to be waste —

- (i) once an application for its re-use, recycling or recovery has been approved or, after such approval, once it is, or has been re-used, recycled or recovered;
- (ii) where approval is not required, once a waste is, or has been re-used, recycled or recovered;

- (iii) where the Minister has, in terms of section 74 of NEM:WA, exempted any waste, or a portion of waste, generated by a particular process from the definition of waste; or
- (iv) where the Minister has, in the prescribed manner, excluded any waste stream, or a portion of a waste stream, from the definition of waste;

**“waste generator” —**

- (a) means —
  - (i) a property owner;
  - (ii) a household;
  - (iii) an organisation; or
  - (iv) a business entity,
 the inhabitants, occupants or employees of which generate waste; and
- (b) includes sorters of waste such as —
  - (i) recycling or waste minimisation groups;
  - (ii) scrap dealers; and
  - (iii) buy-back centres;

**“waste management activity”** means any activity listed in Schedule 1 of NEM:WA or published by the Minister by notice in the *Government Gazette* in terms of section 19 of NEM:WA, and includes —

- (a) the importation and exportation of waste;
- (b) the generation of waste, including the undertaking of any activity or process that is likely to result in the generation of waste;
- (c) the accumulation and storage of waste;
- (d) the collection and handling of waste;
- (e) the reduction, re-use, recycling and recovery of waste;
- (f) the trading in waste;
- (g) the transportation of waste;
- (h) the transfer of waste;
- (i) the treatment of waste; and
- (j) the disposal of waste;

**“waste management club”** means a group of persons, typically residing in a high density residential or office building, or a multi-property cluster residential or business development, that has an agreement approved by the Director in terms of this By-law to minimise waste in exchange for a lower tariff according to an approved integrated waste management plan;

**“waste management hierarchy”** means a method of managing waste in the following order: avoidance, reduction, re-use, recycling, recovery, treatment and disposal;

**“waste management officer”** means the Director or an officer designated under section 58(1) of NEM:WA or designated by the Council of the Municipality;

**“waste management service”** means waste collection, treatment, recycling and disposal service;

**“waste manager”** means any person who re-uses, recycles, recovers, treats or disposes of waste and the words “to manage waste” has a similar meaning;

**“waste minimisation club”** means a group of persons, typically residing in a —

- (a) high density residential or office building; or
- (b) multi-property cluster residential or business development,

that have an agreement, approved by the Director in terms of this By-law, to minimise waste according to an integrated waste management plan, in exchange for a lower tariff;

“**waste stream**” means waste that is divisible into different types of waste, including building waste, business waste, bulky waste, residential waste, garden waste, hazardous waste, health care risk waste, industrial waste and recyclable waste;

“**waste transfer facility**” means a facility that is used to accumulate and temporarily store waste before it is transported to a recycling, treatment or waste disposal facility;

“**waste transporter**” means any person who conveys or transfers waste between —

- (a) the waste generator and a waste management facility; or
- (b) waste management facilities; and

“**waste with heavy metals**” includes mercury waste from thermometers, blood- pressure gauges, residues from dentistry, cadmium waste from discarded batteries, reinforced wood panels used in radiation proofing, and drugs containing arsenic.

**2. Application and scope.** — (1) In the event of conflict between this By-law and any other By-law of the Municipality dealing with waste management, this By-law must prevail.

(2) This By-law must be read with the applicable provisions of the NEM:WA.

(3) This By-law applies to all persons.

**3. Principles.** —(1) The principles contemplated in Chapter 1 of NEM:WA apply in all instances where this By-law applies.

(2) The waste management hierarchy must be applied in the implementation of this By-law.

(3) The application of this By-law must promote —

- (a) sustainable development and a healthy environment through the management of waste within the area of the Municipality; and
- (b) responsible citizenship by residents in the area of the Municipality to ensure sound waste management practices.

**4. Categorisation of waste.** —(1) Waste shall be categorised in accordance with the definitions of the various types of waste in this By-law.

(2) The decision of the Director in respect of the categorisation of waste is, subject to any other applicable law, final.

(3) Service categories for waste management, as provided for in the tariff policy of the Municipality, must be defined in the integrated waste management policy of the Municipality.

**5. Obligations of waste generators.** —(1) A person must manage any waste generated by —

- (a) his or her activities, or
- (b) the activities of persons working —
  - (i) in his or her employ; or

(ii) under his or her direction or control, in such a manner that the waste does not cause harm to human health, the health of other living organisms, or damage to the environment.

- (2) A waste generator must —
- (a) avoid the generation of waste, or where it cannot be avoided, minimise the toxicity and amounts of waste generated;
  - (b) re-use, recycle or recover waste where possible;
  - (c) separate waste with the aim to —
    - (i) minimise its impacts on the environment; and
    - (ii) store the recyclable waste separately from non-recyclable waste: Provided that industrial waste must be separated into liquids, components and materials that can be treated for recycling or re-use;
  - (d) manage waste in a manner that does not endanger health, the environment or create a nuisance;
  - (e) maintain suitable cleanliness and hygiene standards on their premises as prescribed by any law;
  - (f) pay tariffs and rates charged by the Municipality for waste removal services according to the Municipality's Tariff By-law.

(3) A waste generator must conclude a contract with the Municipality or an accredited service provider, to collect waste generated by him or her, for the standard fee in terms of the Tariff By-law, at least once a week according to the routes as published by the Municipality or the service provider from time to time: Provided that residential waste must be collected in the manner contemplated in section 31(2).

(4) A waste generator must, prior to collection by the Municipality or the accredited service provider —

- (a) store waste in the receptacles provided in accordance with the contract contemplated in subsection (3); or
- b) where a receptacle is not provided, store waste in plastic black bags.

(5) A waste generator must dispose of waste —

- (a) in accordance the contract contemplated in subsection (3); or
- (b) by delivering waste to a licenced waste disposal facility and ensuring that said waste is treated or disposed of in an environmentally sensitive manner at the facility.

**6. Excess and additional waste.**—(1) A waste generator may apply to the waste management officer for an additional container and shall be liable for the additional costs as per the Municipality's Tariff By-Law and Tariff Policy.

(2) In the event that the waste generated by a waste generator exceeds the volume that can be stored in the containers provided, the waste generator must arrange for the collection of additional containers.

(3) If no arrangement is made for collection of excess waste, the municipality may provide an additional container to the property and the cost thereof will be added to the property owner's municipal account.

(4) Where the owner of a formal dwelling has other structures on the property with persons living in these separate structures, the Municipality must allocate one container per household and the additional cost thereof will be added to the property owner's municipal account.

(5) The owner of the formal dwelling must sign an additional contract with the Municipality for collection as contemplated in subsection (4) and is liable for the charges levied in connection therewith.

(6) Any business disposing of waste, or an agent disposing of waste on behalf of such business, must provide a waste manifest to the waste management officer on request.

**7. Industrial waste.** —(1) A waste generator generating industrial waste must —

(a) conclude a contract with the Municipality or an accredited service provider for the collection and disposal of such waste to an appropriate licenced waste disposal facility —

(i) at least once per week; or

(ii) as determined by the waste management officer; and

(b) on request, provide proof of such contract to the waste management officer.

(2) Industrial waste, for purposes of subsection (1), refers to that part of industrial waste that is classified as non-hazardous waste in terms of national or provincial legislation.

(3) Industrial waste that is classified as hazardous waste, must be dealt with in accordance with the provisions of section 10 of this By-law.

**8. Garden waste.** —(1) Garden waste generated at properties being used mainly for residential purposes may be —

(a) composted on the property;

(b) stored in a compost heap or suitable bags as per the Municipality's requirements; and

(c) kept on the property until collection or taken to a licenced waste disposal facility.

(2) The Municipality may, from time to time —

(a) stipulate maximum quantities of garden waste to be collected in respect for rural and urban areas; and

(b) impose conditions regarding the disposal of garden waste over a specified mass, and for this purpose call upon a waste generator of garden waste to present a weighbridge ticket as proof of proper disposal of such garden waste.

**9. Building waste.** —(1) A building waste generator —

(a) may not mix building waste with residential waste to be collected by the Municipality in accordance with the waste collection day schedule;

(b) must ensure that the building waste is recycled or, where it cannot be recycled, is disposed of at a facility designated by the Municipality to receive building waste; and

(c) must ensure that —

(i) contaminated building waste is treated or disposed of in which event a fee may be applicable; and

(ii) any other building waste containing a hazardous or dangerous agent, is deposited at a licenced waste disposal facility for the treatment and disposal of such waste.

(2) The municipal manager may issue a directive to a building waste generator after receipt of the building plan concerned, during the construction of the building, or after the completion of such building, to —

(a) separate the waste for treatment, recycling or reuse;

(b) report monthly to the Municipality on the quantities of building or demolition waste —

(i) generated;

- (ii) disposed of at an authorised waste disposal facility;
    - (iii) separated for recycling and reuse; or
  - (c) record the details contemplated in paragraph (b) monthly on the municipal waste information system.
- (3) A person who applies for approval from the Municipality to undertake demolition work in terms of the National Building Regulations and Building Standards Act, 1977 (Act 107 of 1977) and the National Building Regulations, must submit an integrated demolition waste plan with the application.
- (4) An integrated demolition waste plan must —
- (a) include a detailed description of the proposed demolition process;
  - (b) entail detailed plans for maximising the recovery of reusable and recyclable waste;
  - (c) make provision for collection and disposal of the building and other waste;
  - (d) include provision for the storage of the waste on the property concerned: Provided that if such storage is intended to be on municipal property, a valid waste management license must be attached.
- (5) The Municipality may, by Notice in the *Provincial Gazette*, require that a person operating, or wishing to operate, a building waste removal service in the area of the Municipality must —
- (a) register with the Municipality before undertaking such work; and
  - (b) provide such information as is specified in the Notice or as the Municipality may reasonably require.
- (6) An application for registration to operate a building waste removal service must be in the format determined by the Municipality as published in the Notice contemplated in subsection (5).
- (7) The Municipality must, within 30 days of receipt of an application for registration contemplated in subsection (5), consider the application and either—
- (a) register the applicant and issue a registration certificate to the applicant stating —
    - (i) the name of the facility registered to operate as a building waste removal service;
    - (ii) the waste information registration number;
    - (iii) the type of waste handled by the facility;
    - (iv) the location of the facility; and
    - (v) the date of registration; or
  - (b) return the application for correction or any additional information it may require.
- (8) An application for registration which has been returned for correction must be amended and resubmitted by the applicant to the Municipality within 30 days after the date it was returned.
- (9) An application for registration that has been amended and resubmitted as contemplated in subsection (8) must be dealt with as contemplated in subsection (7)(a).
- (10) The Municipality may provide a municipal building waste removal service on payment of a tariff as per the Municipality's Tariff-By-Law and Tariff Policy.
- (11) A person who wishes to place an appropriate receptacle for the storage and collection or disposal of building waste on a public road must apply to the Municipality for written consent.
- (12) A receptacle contemplated in subsection (11) must be—

- (a) clearly marked with the name, address and telephone number of the person responsible for the receptacle;
- (b) fitted with reflecting chevrons or reflectors that clearly outline the front, sides and the back of the receptacle; and
- (c) covered at all times, except when receiving or being emptied of waste, so that no displacement of its contents can occur.

(13) The owner of the facility where building rubble is disposed of must—

- (a) register on the national or provincial waste information system concerned;
- (b) submit reports to the national or provincial waste information system concerned as required by national or provincial legislation;
- (c) provide proof to the waste management officer of—
  - (i) the registration contemplated in paragraph (a); and
  - (ii) the submission of reports contemplated in paragraph (b).

(14) The building or demolition waste generator or the owner of the property on which building or demolition waste is generated and who disposes or stores such waste on municipal property without the required permit, may be fined.

(15) When a building control officer inspects a property where building works have been undertaken in order to determine whether it has been built in accordance with the approved plans, he or she must also determine whether all building or demolition waste has been disposed of in the prescribed manner.

(16)(a) The building control officer contemplated in subsection (15) may not issue an occupancy certificate; and

(b) the Municipality may not grant final approval that the building has been built in accordance with the approved plans,

unless the owner of the property provides the building control officer with a waste manifest that proves that the full mass of the building or demolition waste was disposed of at a licenced waste disposal facility for that category of waste.

**10. Hazardous waste.** —(1) A hazardous waste generator, or a person who treats, transports or disposes of hazardous waste, or who intends to generate, treat, transport or dispose of hazardous waste in the municipal area must—

- (a) at all times be in possession of a valid waste management licence as required in terms of NEM:WA and provincial legislation;
- (b) comply with—
  - (i) licencing conditions as contemplated in paragraph (a); and
  - (ii) relevant provisions of NEM:WA and provincial legislation;
- (c) submit reports as required in terms of NEM:WA and provincial legislation; and
- (d) provide proof to the waste management officer of—
  - (i) the licence contemplated in paragraph (a); and
  - (ii) the submission of reports contemplated in paragraph (c).

(2) The Municipality may, by Notice in the *Provincial Gazette*, require that a hazardous waste generator, or a person who treats, transports or disposes of hazardous waste, or who intends to generate, treat, transport or dispose of hazardous waste in the municipal area must —

- (a) register with the Municipality before undertaking such work; and
- (b) provide such information as is specified in the Notice or as the Municipality may reasonably require.

- (3) An application for registration to generate, treat, transport or dispose of hazardous waste must be in the format determined by the Municipality as published in the Notice contemplated in subsection (2).
- (4) The Municipality must, within 30 days of receipt of an application for registration as contemplated in subsection (3), consider the application and either—
- (a) register the applicant and issue a registration certificate to the applicant stating the —
    - (i) name of the facility registered to generate, treat, transport or dispose of hazardous waste;
    - (ii) waste information registration number;
    - (iii) type of waste handled by the facility;
    - (iv) location of the facility; and
    - (v) date of registration; or
  - (b) return the application for correction or any additional information it may require.
- (5) An application for registration which has been returned for correction must be amended and resubmitted by the applicant to the Municipality within 30 days after the date it was returned.
- (6) An application for registration that has been amended and resubmitted as contemplated in subsection (5) must be dealt with as contemplated in subsection (4)(a).
- (7) A hazardous waste generator or the owner of the premises where hazardous waste is generated must contract with an accredited registered service provider to collect, treat, transport or dispose of such waste at a licenced hazardous waste disposal facility.
- (8) A hazardous waste generator must ensure that hazardous waste, except for hazardous waste that does not require classification in terms of national legislation, is classified in accordance with SANS 10234 and any other SANS that may be issued from time to time, within —
- (a) 180 days of its generation;
  - (b) 180 days from the date of commencement of this By-law; or
  - (c) the time frame specified in a notice delivered by the Municipality.
- (9) A hazardous waste generator may not hand over hazardous waste to a service provider unless it is accompanied by a declaration in which —
- (a) the content of the consignment is fully and accurately described;
  - (b) it is stated whether or not the hazardous waste requires classification in terms of subsection (8);
  - (c) if the waste requires classification, the details of its classification are included.
- (10) Accredited and registered service providers may not accept hazardous waste that is —
- (a) not accompanied by a declaration referred to in subsection (9); or
  - (b) required to be classified in terms of subsection (8) read with subsection (9)(b), and has not been classified as such.
- (11) For the purposes of subsections (8), (9) and (10), a document prepared in terms of national or provincial legislation is acceptable provided that it contains all the required information.
- (12) The Municipality may, from time to time, publish a list of additional hazardous waste that requires classification in terms of subsection (8) read with subsection (9)(b).

(13) A person transporting hazardous waste must ensure that the facility or place to which the hazardous waste is transported is authorised to accept such hazardous waste prior to off-loading the hazardous waste from the vehicle concerned.

(14) A person responsible for the transit of hazardous waste through the municipal area, must comply with the provisions of subsections (1)(a), (b) and (d)(i).

**11. Event waste.** —(1) Any person who —

(a) intends to organise a sporting, entertainment, cultural or religious event which is to take place on private or public property; or

(b) owns or controls premises at which a sporting, entertainment, cultural or religious event is to take place, including sports stadia and conference centres,

must, together with his or her application to the Municipality for approval to host such event, submit an integrated event waste management plan in respect of the clean-up, storage, collection, recycling and disposal of waste at, and after such event, to the waste management officer.

(2) The event waste management plan must —

(a) be submitted to the Municipality together with the event application contemplated in the Event Management By-law of the Municipality;

(b) identify the person responsible for the execution of the plan;

(c) identify the accredited service provider responsible to clean-up, collect, recycle, remove and dispose of the event waste;

(d) set out in detail the measures to be taken for the clean-up, collection, recycling, removal and disposal of the event waste;

(e) include costing information; and

(f) comply with any terms and conditions as may be determined by the Municipality.

(3) The organiser of the event may be required to pay a refundable deposit to be determined by the Municipality.

(4) A person contemplated in subsection (1) must contract with an accredited service provider for the collection, clean-up, recycling and disposal of the event waste to a licenced waste disposal facility and provide proof of agreement to the Municipality as part of its integrated waste management plan.

(5) The organiser of the event must, after the event, ensure that the event waste is disposed of at an authorised waste management facility and provide the Municipality with proof of the disposal or recycling of the waste concerned.

(6) If any event waste has not been cleaned up and collected after an event has been held, the municipal manager may issue a directive to the organiser of the event to remove the waste to an authorised waste disposal facility.

(7) If a directive is issued as contemplated in subsection (6) and—

(a) the organiser of the event fails to comply, or inadequately complies, with the directive;

(b) there is uncertainty regarding the identity or whereabouts of the organiser of the event or responsible person; or

(c) there is an immediate risk of danger to the public or detriment to the environment, the Municipality may take all reasonable measure necessary to clean up, collect, recycle, remove and dispose, as the case may be, of the event waste.

(8) Should the organiser of an event fail or neglect to obtain the services of an accredited service provider in terms of subsection (4) prior to the event in question, or fail to provide the Municipality with the integrated waste management plan, the waste management officer may arrange for the collection, clean-up, recycling and disposal of the waste, in which case subsection (9) also applies.

(9) The cost for the collection, clean-up, recycling and disposal of the waste is payable by the event organiser and may be recovered from the deposit paid, or in terms of the Municipality's Tariff By-law.

(10) The organiser of an event and any other person responsible for the event arrangements, will be jointly and severally accountable for the costs incurred by the Municipality following the measures contemplated in subsections (8) and (9).

**12. Organic waste.** —(1) The occupant of premises on which organic waste is generated —

- (a) may compost the waste on the premises, provided that the composting does not cause a nuisance or harm to human health or damage to the environment;
- (b) but not composted, must ensure that the waste is collected and treated or disposed of within a reasonable period after its generation.

(2) The municipal manager may issue a directive to —

- (a) an organic waste generator to —
  - (i) develop an integrated refuse management plan indicating measures to minimise and recover such waste; and
  - (ii) transport the waste to designated facilities for treatment or disposal; and
- (b) a transporter of garden waste or a person providing garden maintenance services to transport any garden waste to a facility designated by the Municipality for disposal.

(3) The Municipality or an accredited service provider may —

- (a) upon written request of the occupant of premises on which organic waste is generated; and
- (b) on payment of a tariff as per the Municipality's Tariff-By-Law and Tariff Policy, deliver an appropriate receptacle for the purpose of storing organic waste, in addition to any receptacle already provided by the Municipality for general waste.

**13. Bulky waste.** —(1) A bulky waste generator —

- (a) may not place the bulky waste with other waste that is to be collected by the Municipality in accordance with the waste collection day schedule; and
- (b) must ensure that the bulky waste is recycled or, when it cannot be recycled, disposed of at a facility designated by the Municipality to receive bulky waste.

(2) The Municipality or an accredited service provider may, on the request of the occupant of premises at which bulky waste is generated, remove bulky waste from those premises on payment of a tariff.

(3) The municipal manager may issue a directive to an accredited service provider that collects bulky waste to —

- (a) report monthly to the Municipality on the quantities of bulky waste —
  - (i) disposed of; and
  - (ii) separated for recycling; or

- (b) record the details contemplated in paragraph (a) monthly on the municipal waste information system.

**14. Waste tyres.** —(1) A person operating, or intending to operate as a tyre producer, tyre dealer, waste tyre collector, tyre stockpile owner or tyre recycling processor in the municipal area must —

- (a) at all times be in possession of a valid waste management licence as required in terms of NEM:WA and provincial legislation;
- (b) comply with—
  - (i) licencing conditions as contemplated in paragraph (a); and
  - (ii) relevant provisions of NEM:WA and provincial legislation;
- (c) submit reports as required in terms of NEM:WA and provincial legislation; and
- (d) provide proof to the waste management officer of—
  - (iii) the licence contemplated in paragraph (a); and
  - (iv) the submission of reports contemplated in paragraph (c).

(2) The Municipality may, by Notice in the *Provincial Gazette*, require a person operating, or intending to operate as a tyre producer, tyre dealer, waste tyre collector, tyre stockpile owner or tyre recycling processor to —

- (a) register with the Municipality before undertaking such work; and
- (b) provide the information —
  - (i) specified in the Notice; or
  - (ii) reasonably required by the Municipality.

(3) An application for registration contemplated in subsection (2)(a) must be in the format determined by the Municipality as published in the Notice contemplated in subsection (2).

(4) The Municipality must, within 30 days of receipt of an application contemplated in subsection (2), consider the application and either—

- (a) register the applicant and issue a registration certificate to the applicant stating the —
  - (i) name of the facility registered to operate as a tyre producer, tyre dealer, waste tyre collector, tyre stockpile owner or tyre recycling processor;
  - (ii) waste information registration number;
  - (iii) type of waste handled by the facility;
  - (iv) location of the facility; and
  - (v) date of registration; or
- (b) return the application for correction or any additional information it may require.

(5) An application for registration which has been returned for correction must be amended and resubmitted by the applicant to the Municipality within 30 days after the date it was returned.

(6) An application for registration that has been amended and resubmitted as contemplated in subsection (5) must be dealt with as contemplated in subsection (4)(a).

(7) The Municipality may, by Notice in the *Provincial Gazette*, require the public to dispose of waste tyres at facilities designated in the notice.

**15. Priority waste.** —(1) The Director may, in accordance with this By-law, categorise priority waste if —

- (a) it has been declared a priority waste in terms of other applicable legislation;

- (b) he or she reasonably believes that special measures are required in respect of the management of that waste, because it —
  - (i) poses a significant threat to health or the environment;
  - (ii) may persist in the environment; or
  - (iii) contains or could foster pathogens or communicable diseases.

(2) The Municipality may, from time to time, publish guidelines that may be necessary in respect of categorisation of waste.

**16. Abandoned articles.** —The Municipality may remove and dispose of any article it reasonably considers abandoned, considering the following factors:

- (a) the location of the article;
- (b) the length of time that the article has been at that location; and
- (c) the nature and condition of the article.

**17. Emergencies requiring the management of waste.** —(1) In the event of an emergency, the Director may —

- (a) call upon the owner of a property, or a waste generator on such property, to manage the waste involved within a stipulated period and to the Municipality's satisfaction;
- (b) arrange for management of an emergency, including the clearing and cleaning of debris and pollution effects and —
  - (ii) transporting; and
  - (iii) disposal,
 of the waste at a licenced waste disposal facility accredited for the specific type of waste generated;
- (c) arrange, manage and co-ordinate the rehabilitation and repair of any infrastructure, buildings, equipment or natural environment damaged in this process.

(2) The cost of such management, rehabilitation and repair, including all costs incurred in the utilisation of the Municipality's resources, equipment and materials is for the account of the person responsible for the emergency.

(3) If an emergency occurs due to an act of God, the Municipality will deal with such emergency in the manner permitted by the circumstances and available funding.

**18. Obligations of waste managers.** —Waste managers —

- (a) must ensure that they comply with the legislation applicable to the waste management activity that they are engaged in; and
- (b) may not mix or treat waste, if the mixing or treating thereof will reduce the potential for re-use, re-cycling or recovery of such waste.

**19. Waste management clubs.** —(1) Waste management clubs may apply to the Director for a special dispensation as an enhanced service associated with waste minimisation in terms of the Municipality's Tariff By-Law and Tariff Policy.

(2) The waste management club must submit an integrated waste management plan in writing to the Director for approval, as well as other application documentation for the formation and operation of a waste minimisation club, as may be determined by the Municipality.

(3) The Director may, subject to the provisions of this By-law, determine whether to approve the application for a special dispensation of a waste minimisation club.

(4) If an application to form a waste minimisation club is —

- (a) unsuccessful, the Director must, within a reasonable time and in writing, provide reasons for turning down an approval to the waste minimisation club; and
- (b) approved by the Director, the club must comply with the terms and conditions set out by the Director for the generation, minimisation, storage, collection and disposal of such waste.

**20. Integrated waste management plan.** —(1) The waste generators named in subsection (12) must submit an integrated waste management plan in writing to the waste management officer for approval prior to the generation of the waste to be dealt with in terms of the said plan.

(2) An integrated waste management plan must include the following:

- (a) an assessment of the quantity and type of waste that will be generated;
- (b) a description of the services required to store, collect, transport and dispose of such waste;
- (c) a description of how separation of recyclable and non-recyclable material at the point of source will be done;
- (d) the waste minimisation and pollution prevention plans of such waste generator;
- (e) targets for waste minimisation through waste reduction, reuse, recycling and recovery;
- (f) measures to prevent pollution or ecological degradation;
- (g) the impact or potential impact on the environment of the waste created;
- (h) the type or characteristics of waste of an environmentally sensitive nature to be produced;
- (i) the amount of natural resources that are consumed in the manufacturing or production process that result in waste;
- (j) targets for waste production through waste minimisation, re-use, recycling;
- (k) recovery measures or programmes that can minimise the consumption of natural resources and the method of disposal of waste;
- (l) the timeframes of the implementation of the plan; and
- (m) methods for monitoring and reporting on the implementation of the plan.

(3) Every integrated waste management plan must comply with applicable additional requirements, if any, as set out in sections 7, 9, 10, 11, 14 and 15, respectively.

(4) An integrated waste management plan for industrial entities must include —

- (a) measures or actions to be taken to manage waste;
- (b) the phasing out of the use of certain substances; and
- (c) opportunities for reduction of waste generation through changes to packaging, product design or production processes.

(5) Industrial and business entities must provide for mechanisms to inform the public of the impact of waste-generating products or packaging on the environment through education, marketing and sales information, in order to influence perception and behaviour of customers to ensure recycling of products.

(6) When a waste generator is requested to submit an integrated waste management plan or a further integrated waste management plan in terms of this By-law, he or she must do so within the time stipulated and comply with the terms and conditions for the generation,

minimisation, storage, collection and disposal of such waste, as set out by the waste management officer.

- (7) The waste management officer must consider the plan and —
- (a) approve it with conditions and give directions for the implementation thereof;
  - (b) request that additional information be furnished or a revised plan be submitted for approval;
  - (c) require amendments to be made within a time frame so specified by them; or
  - (d) reject the plan and provide written reasons therefor.

(8) If an integrated waste management plan is rejected or not submitted at all, the municipal manager must issue directives to the waste generator as to what waste management measures he or she must take.

(9) If a waste generator fails to take the waste management measures contemplated in subsection (8) within the time frame specified by the municipal manager, the Municipality may implement such measures and the waste generator will be liable for the cost thereof.

- (10) The waste management officer may, by written notice, require waste generators to —
- (a) take reasonable steps to ensure that he or she —
    - (i) implements the integrated waste management plan;
    - (ii) complies with the directives given by the municipal manager; and
  - (b) report any non-compliance with any —
    - (i) applicable waste management plan; or
    - (ii) directive,
 to the waste management officer.

- (11) The Director may —
- (a) by written notice require any person to provide such information as he or she requires when preparing the Municipality's integrated waste management plan; and
  - (b) if that person fails to provide the information referred to in paragraph (a), appoint an auditor to obtain such information at the cost of the relevant waste generator.

- (12) The following persons must submit an integrated waste management plan:
- (a) waste generators of —
    - (i) business waste;
    - (ii) industrial waste;
    - (iii) building waste;
    - (iv) event waste;
    - (v) priority waste; and
    - (vi) hazardous waste, and
  - (b) every person who —
    - (i) applies for special dispensation in terms of section 19;
    - (ii) sorts waste or undertake a recycling, a re-use or a waste recovery activity, including but not limited to, scrap dealers, formalised recycling groups and buy back centres, which must register for accreditation with the Municipality, in order to entitle them to perform such activities; or
    - (iii) is given notice to do so by the Director;

**21. Exemptions from submitting an integrated waste management plan.** —(1) A waste generator of the categories of waste referred to in section 20(12)(b)(ii) who wishes to be exempt from submitting a waste management plan, may apply in writing for exemption to the waste management officer, stipulating reasons for the application.

- (2) A waste management officer may also declare—
- (a) certain types of waste or waste generators;
  - (b) a specified mass or volume of waste; or
  - (c) persons who have submitted such a plan to the other spheres of government in terms of their applicable legislation,
- to be exempt from the submission of an integrated waste management plan.

**22. Storage and receptacles for general waste.** —(1) A person who —

- (a) generates general waste to be collected by the Municipality; or
- (b) separates waste streams to be collected by the Municipality for recycling,

must place the waste in a receptacle approved, designated or provided for that purpose by the Municipality.

- (2) A person contemplated in subsection (1) must ensure that—
- (a) the receptacle is stored on the premises where the waste is generated and away from a public place between collection days;
  - (b) the receptacle is placed outside the premises in an area accessible to municipal officials or service providers on the collection day determined in the waste collection day schedule;
  - (c) measures are in place to prevent tampering with the receptacle by animals;

- (3) Any holder of waste who stores or transports waste must ensure that —
- (a) the container in which any waste is stored, is —
    - (i) intact;
    - (ii) not corroded or
    - (iii) in any other way rendered unfit for the safe storage or transportation of waste;
  - (b) a receptacle provided by the Municipality is not used for any purpose other than for the storage of waste;
  - (c) the waste is not stored at any public place;
  - (d) suitable measures are in place to prevent accidental spillage or leakage of such waste;
  - (e) the waste cannot be blown away;
  - (f) nuisances such as odour, visual impacts and breeding of vectors do not arise;
  - (g) pollution of the environment and harm to health are prevented;
  - (h) hazardous waste is sealed in an impervious container and suitable measures are in place to prevent tampering; and
  - (i) any waste items or substances are —
    - (i) safe for handling, collection or disposal; and
    - (ii) not harmful to persons when accessed by unauthorised persons or members of the public.

(4) The waste generator and the holder of waste must ensure that waste is transported to the nearest licenced disposal facility that has capacity to deal with such waste.

- (5) A waste generator or the holder of waste must —
- (a) notify the Municipality if a receptacle contemplated in this section is stolen, damaged or corroded, as soon as the theft, damage or corrosion comes to his or her attention; and
  - (b) arrange for the replacement of the said receptacle.

(6) When a receptacle is stolen an authorised municipal official may request that the waste generator or holder of waste report the theft to the South African Police Service before issuing a new receptacle.

**23. Storage, separation, recycling, re-use, sorting and recovery of waste.** —(1) A person who undertakes any activity involving the reuse, recycling or recovery of waste, including —

(a) scrap dealers,  
 (b) buy back centres and  
 (c) formalised recycling groups,  
 must, prior to undertaking that activity, ensure by way of an environmental impact assessment or a similar procedure required by national or provincial legislation, that the recycling, re-use or recovery of the waste is less harmful to the environment than its disposal.

(2) A person contemplated in subsection (1) must —

(a) apply for accreditation from the Municipality in terms of its guidelines as published from time to time;  
 (b) submit an integrated waste management plan for consideration and approval of the waste management officer;  
 (c) register on the national or provincial waste information system concerned;  
 (d) submit reports to the national or provincial waste information system concerned as required by national or provincial legislation; and  
 (e) provide proof to the waste management officer of—  
 (i) the registration contemplated in paragraph (c); and  
 (ii) the submission of reports contemplated in paragraph (d).

(3) The waste management officer may exempt certain waste generators, handlers, transporters or agents of waste from such requirements.

(4) The municipal manager may issue a directive to a person contemplated in subsection (1) to —

(a) report to the Municipality monthly on the quantities of waste —  
 (i) generated;  
 (ii) disposed of at an authorised waste disposal facility; and  
 (iii) separated for recycling and recovery; or  
 (b) record the details contemplated in paragraph (a) monthly on the integrated pollutant and waste information system of the Municipality.

(5) The municipal manager may issue a directive to a holder of waste or the executive body of a community scheme and the owners and occupants of residential properties within a community scheme to require them to —

(a) separate specified recyclable waste;  
 (b) use different receptacles for different specified categories of recyclable waste; and  
 (c) make recyclable waste available for collection in a specified manner.

(6) If the Municipality or an accredited service provider has provided separate receptacles for the purposes of subsection (5)(b), a person may not use any other receptacle for recyclable waste.

**24. Prohibition on unauthorised disposal of waste.** —(1) No person may —

(a) dispose of waste other than in accordance with this By-law or National and Provincial legislation;  
 (b) dispose of waste in or on any land or water body or at any facility unless the disposal of that waste is authorised by this By-law;

- (c) knowingly or negligently dispose waste, cause or permit waste to be disposed of, in a manner that is likely to —
  - (i) cause pollution,
  - (ii) cause harm to the health of humans or of other living organisms or
  - (iii) cause damage to the environment; or
  - (iv) otherwise negatively impact on the environment;
- (d) knowingly or negligently dispose hazardous waste, cause or permit hazardous waste to be disposed unless in —
  - (i) accordance with an approved waste integrated management plan; and
  - (ii) a container provided by the Municipality that is designed for the storage and disposal of hazardous waste;
- (e) burn waste, in particular hazardous waste, except —
  - (i) in an approved and licensed incinerator; and
  - (ii) by a person with a permit to operate and incinerator;
- (f) deposit in a public litter bin any waste that is not generated in a public place: Provided that no residential, business, industrial, garden, building or hazardous waste may be deposited in a public litter bin; or
- (g) deal with waste in a manner that causes dust, nuisance, spillage or litter.

(2) If waste has been disposed of in contravention of this By-law, the municipal manager may issue a directive to the person responsible for the contravention to remove the waste to an authorised waste disposal facility within a specified period.

(3) If a directive issued in terms of subsection (2) is not complied with, or inadequately complied with, and there is —

- (a) uncertainty regarding the identity or whereabouts of the person responsible; or
  - (b) an immediate risk of danger to the public or detriment to the environment,
- the Municipality may undertake all reasonable measures required to contain, minimise and remedy the effects of the illegally disposed waste, including clean-up procedures.

(4) Every person responsible for the unauthorised disposal of waste as contemplated in this section will be jointly and severally accountable for the costs incurred by the Municipality following the measures contemplated in subsection (3).

**25. Prohibition on burning of waste.** —No person may burn, incinerate or apply any other thermal treatment technology to waste except in a thermal treatment facility authorised by the Municipality or the relevant competent authority.

**26. Prohibition on littering and dumping.** —(1) No person may —

- (a) drop, throw, deposit, spill, dump, store or in any other way discard, any litter or waste into or onto any public place, municipal drain, land, vacant erf, stream, water course, street, road, wetland, coastline or on any place to which the public has access or onto any private property that is owned by a third party;
- (b) otherwise dispose of any litter or waste;
- (c) disturb anything in, or remove anything from, any receptacle that has been placed for the purposes of collecting waste in such a manner as to cause the contents of the receptacle to spill or fall onto the ground; or
- (d) allow a person under his or her employ, direction or control to do any of the acts contemplated in subsections (1)(a), (b) and (c).

(2)(a) The owner of private land to which the public has access must ensure that enough containers are provided to contain litter which is discarded by the public.

(b) If litter has been disposed of or discarded in contravention of this By-law on privately owned land to which the public has access, the owner of that land must remove the litter from the property within a reasonable period.

(3) A person who —

- (a) owns;
- (b) is in control of; or
- (c) has a right to use,

land or premises, may not use or permit the use of such land or premises for unlawful dumping of waste and must take reasonable steps to prevent the use of such land or premises for that purpose.

(4) In the event of a contravention of subsections (1), (2) or (3), the Director may issue a written notice to the offender, to —

- (a) cease the contravention within a specified time;
- (b) prevent a further contravention or continuation of the contravention;
- (c) take whatever measures the Director considers necessary to clean up or remove the waste;
- (d) rehabilitate the affected facets of the environment; and
- (e) ensure that the waste and any contaminated material which cannot be cleaned or rehabilitated is disposed of lawfully:

Provided that the Director may also require the offender to submit a plan for approval with timeframes for the removal of the litter or waste as contemplated in subsections (1)(a), (b) and (c) and the rehabilitation of the area concerned.

(5) In the case of non-compliance with subsection (4), the Municipality may elect to act to remove the litter or waste contemplated in this section, in which event the person concerned shall be liable for the cost of such removal operation.

(6) In the case of hazardous waste, the Municipality may immediately act to remove the litter or waste and immediately thereafter notify the person concerned of their liability to pay the costs of removal, rehabilitation and any other reasonably related costs within the stipulated time.

**27. Prohibition of nuisance.** —(1) A person handling waste, whether during storage, collection, transportation, recycling, treatment or disposal, must—

- (a) take reasonable measures to prevent it from being a nuisance to anybody or the environment; and
  - (b) take measures at his or her own cost to remedy any nuisance caused,
- and the municipal manager may issue a directive to such a person to ensure compliance with this section.

(2) If a directive contemplated in subsection (1) is issued and—

- (a) such a person fails to comply, or inadequately complies, with the directive;
  - (b) there is uncertainty regarding the identity or whereabouts of such a person; or
  - (c) there is an immediate risk of danger to the public or detriment to the environment,
- the Municipality may take any measure it considers necessary to prevent the nuisance, contain and minimise the effects of the nuisance and remedy its effects.

(3) Every person responsible for the nuisance contemplated in this section will be jointly and severally accountable for the costs incurred by the Municipality following the measures contemplated in subsection (2).

**28. Licences.** —The waste management officer may require that any person who, or entity which, requires a licence to handle waste in terms of national or provincial legislation, provide proof of the appropriate license within a period as stipulated by the waste management officer.

**29. Service providers.** —(1) The Municipality may discharge any of its functions pertaining to waste separation, collection, storage, processing, recycling, treatment and disposal by entering into a service delivery agreement with an accredited service provider.

- (2) A service delivery agreement must —
- (a) accord with this By-law;
  - (b) stipulate service standards for the services to be rendered, including collection times and frequency;
  - (c) provide for the circumstances in which services rendered by the service provider may be limited;
  - (d) require the service provider to be registered on the national or provincial waste information system; and
  - (e) provide for reporting to the Municipality.

**30. Collection and transportation of general waste.** —(1) The Municipality must set a schedule of the days for the collection of waste and the location where waste receptacles must be placed on those days.

- (2) The Municipality may —
- (a) set a different waste collection day schedule for commercial and residential properties;
  - (b) collect waste outside of the set schedule on request and at a fixed tariff;
  - (c) set the maximum quantities of waste that will be collected;
  - (d) by Notice in the *Provincial Gazette*, identify waste streams that may not be collected by the Municipality or that are unsuitable for collection.
- (3) The Municipality must—
- (a) publish the waste collection day schedule, in both printed form and electronically; and
  - (b) take other reasonable measures to ensure that the public is notified of the schedule.
- (4) If waste that is being transported is spilt, leaked or detached or falls from a receptacle, vehicle or other conveyance, the Municipality may recover costs from the transporter for reasonable remedial measures undertaken by the Municipality.

**31. Waste management, collection and removal services.** —(1) All persons collecting or removing waste must have a contract for the collection and removal of waste with the Municipality or an accredited service provider.

- (2) Residents must apply and register for waste collection and removal services that will be provided exclusively by the Municipality or its contracted accredited service provider, unless the Council authorises otherwise.
- (3) Businesses must contract with —
- (a) the Municipality; or
  - (b) an accredited service provider,
- for the waste collection and removal services.

- (4) Industries must contract with —
  - (a) in the case of general waste, contract with the Municipality or an accredited service provider; and
  - (b) in the case of hazardous waste, contract with an accredited service provider, for the waste collection and removal services.

(5) Commercial and industrial undertakings, including scrap dealers, who require a waste collection and removal service that is not provided by the Municipality, must register with the Municipality and prove that they have contracted with an accredited service provider for such service.

- (6) An entity providing waste management services, or an accredited service provider required to have a licence or approval in terms of national or provincial legislation, must —
  - (a) provide proof of such licence or approval; and
  - (b) comply with criteria determined by the Council, before they will be registered by the Director.

(7) The Director must keep an updated record of registered accredited service providers.

**32. Transporting waste for gain.** —A person transporting general waste for gain in the area of the Municipality must, at all times —

- (a) be accredited by the Municipality;
- (b) ensure that the receptacle, vehicle or other conveyance is adequate in size and designed for the type of waste transported;
- (c) transport the waste in a manner that will prevent any nuisance;
- (d) maintain the receptacle, vehicle or other conveyance in a clean and sanitary condition; and
- (e) ensure that the waste is transported to, or deposited at, a waste transfer facility, general waste storage facility, recycling facility or waste disposal facility authorised to accept such waste.

**33. Collection of unsuitable waste.** —A person may not place waste identified in terms of section 30(2)(d) to be unsuitable for collection, either on its own or mixed with any other waste for which the Municipality provides collection services.

**34. Waste transfer facilities.** —A waste generator must, where applicable—

- (a) use an appropriate waste transfer facility as instructed by an authorised municipal official, a waste disposal facility operator or a service provider; and
- (b) adhere to the operational procedures of the waste transfer facility as determined by the Municipality.

**35. Disposal of waste.** —(1) An authorised municipal official, waste disposal facility operator or service provider may inspect all waste loads entering a waste transfer facility, general waste storage facility, recycling facility or waste disposal facility.

(2) The inspection contemplated in subsection (1) may include the visual and physical inspection of the waste.

(3) An authorised municipal official may issue an instruction to the holder of waste that is potentially detrimental to the environment to—

- (a) have independent laboratory tests conducted before the waste is disposed of to assess whether the waste is suitable for a waste disposal facility; or
- (b) dispose of the waste at an appropriate waste disposal facility that is authorised to accept such waste and to provide proof of such disposal.

(4) If the holder of waste contemplated in subsection (3)(b) does not comply with the prescribed disposal, the Municipality may remove and dispose of such waste at an appropriate waste disposal facility.

(5) In the circumstances contemplated in subsections (3) and (4), or where waste contemplated in section 30(2)(d) is removed by the Municipality, every person responsible for that waste will be jointly and severally accountable for the costs incurred, including the costs associated with—

- (a) the use of specialised equipment during the laboratory tests;
- (b) laboratory analysis fees;
- (c) administrative fees;
- (d) transporting and disposal costs; and
- (e) clean-up costs, where applicable.

(6) A person disposing of waste at a waste disposal facility owned or managed by the Municipality must adhere to the operational procedures of the facility.

**36. Access to private property.** —(1) An owner of private property must, on request, allow a peace officer or any other duly authorised employee of the Municipality access to their property during reasonable hours for the purpose of inspecting the property and investigating any contravention of this By-law and to ensure compliance therewith.

(2) When accessing the property, the authorised employee must, on request, identify him or herself by producing written proof of such authority.

(3) Such employee may be accompanied by a person reasonably required to assist in the inspection or to conduct an investigation, who must be identified as such by the authorised employee.

**37. Premises inaccessible for refuse collection.** —If employees of the Municipality, or of an accredited service provider as contemplated in section 29, are—

- (a) impeded from handling or collecting waste at any premises due to the layout of the premises; or
- (b) endangered by an impediment on the premises when handling or collecting waste at any premises,

the municipal manager may issue a directive requiring the owner of the premises to undertake such alterations or additions to the premises as are necessary to remove the impediment at the owner's cost.

**38. Directives.** —(1) The municipal manager may issue a directive to any person contemplated in this By-law, to take specific measures pertaining to waste within a specified period to ensure that the impact of waste on human health or damage to the environment is mitigated and to give effect to the waste management hierarchy.

(2) Before issuing a directive contemplated in this By-law, the municipal manager must give notice in writing to the person to whom the directive is intended to be issued of the intention

to issue the directive, and give that person a reasonable opportunity to make representations in writing.

(3) If urgent action is necessary for the protection of the environment, or as contemplated in section 37, the municipal manager—

- (a) may issue the directive without giving written notice to the person beforehand; and
- (b) must give the person to whom the directive was issued an opportunity to make written representations within a reasonable period thereafter.

**39. Compliance notices.**—(1) An authorised municipal official may issue a written compliance notice to a person if there are reasonable grounds for believing that the person has not complied with a —

- (a) provision of; or
- (b) term or condition of any permit, authorisation, exemption or other document issued in terms of,

this By-law.

(2) Before issuing a compliance notice, an authorised municipal official must give notice in writing to the person to whom the compliance notice is intended to be issued of the intention to issue the compliance notice and provide that person with a reasonable opportunity to make written representations.

(3) If urgent action is necessary for the protection of the environment, an authorised municipal official —

- (a) may issue a compliance notice without giving written notice to the person beforehand; and
- (b) must give the person to whom the compliance notice was issued an opportunity to make written representations within a reasonable period thereafter.

(4) A compliance notice must set out —

- (a) details of the conduct constituting non-compliance;
- (b) any steps the person must take and the period within which the steps must be taken;
- (c) any actions the person may not perform, and the period during which the person may not do so;
- (d) the steps the Municipality is entitled to take in terms of subsection (6) if the notice is not complied with; and
- (e) the procedure to be followed to lodge an appeal against the compliance notice.

(5) An authorised municipal official may, on good cause shown, vary a compliance notice and extend the period within which it must be complied with.

(6) If a person to whom a compliance notice has been issued fails to comply with it, the Municipality may—

- (a) take whatever steps it considers necessary, where applicable, to—
  - (i) clean up or remove the waste;
  - (ii) rehabilitate the premises, place or affected area at which the waste has been dumped or disposed of or is stored; and
  - (iii) ensure that waste and any contaminated material that cannot be removed, cleaned or rehabilitated is treated or disposed of lawfully; and
- (b) recover the costs of any steps contemplated in paragraph (a) from every person responsible to take such steps in terms of this By-Law, who will be jointly and severally accountable for those costs.

(7) The Municipality may, in the case of hazardous or priority waste, require the persons generating such waste to close until such time as steps are taken to dispose of the waste as provided for in this By-law and any other applicable law, if there is a real threat of damage or injury to any person or property.

(8) The following persons may be served with a compliance notice:

- (a) any person who committed, or who directly or indirectly permitted, such contravention;
- (b) the generator of the waste;
- (c) the owner of the land or premises where the contravention took place;
- (d) the person in control of the land or premises where the contravention took place;
- (e) any person who has or had, at the stage of the contravention, a right to use the land or premises where the contravention took place; or
- (f) a service provider.

**40. Appeals.**—(1) A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may, unless the decision was taken by the municipal council, appeal against that decision in terms of section 62 of the Municipal Systems Act.

(2) The appeal authority to consider the appeal will comprise of the person or body contemplated in section 62(4) of the Municipal Systems Act.

(3) Subject to subsections (4) and (5), an appeal under this section suspends the operation of the decision concerned pending the finalisation of the appeal.

(4) A person who receives a directive or compliance notice issued in terms of this By-law must comply with that directive or compliance notice within the period stated in the directive or compliance notice, unless the appeal authority has agreed to suspend the operation of the directive or compliance notice as contemplated in subsection (5)(b).

(5) The appeal authority may, on application and on good cause shown, direct that, pending the finalisation of the appeal —

- (a) the operation of the decision forming the subject of the appeal, or any provision or condition attached thereto, is not suspended, either wholly or in part; or
- (b) the operation of the directive or compliance notice contemplated in subsection (4), or any part of that directive or compliance notice, is suspended.

**41. Duty to produce documents.**—A person to whom a certificate, permit, authorisation or any other document contemplated in this By-law has been issued must produce it at the request of a peace officer or an authorised municipal official.

**42. Service of documents and process.**—Whenever any notice, order, demand or other document is authorised or required to be served on a person in terms of this By-law, it shall be deemed to have been effectively and sufficiently served on such a person—

- (a) when it has been delivered to him or her personally;
- (b) when it has been left at his or her place of residence or business with a person apparently over the age of 16 years;
- (c) when it has been posted by registered or certified mail to his or her last known residential or business address and an acknowledgement of posting thereof is produced;
- (d) if his or her address is unknown, when it has been served on his or her agent or representative in a manner provided for in paragraph (a), (b) or (c); or

- (e) if his or her address and agent are unknown, when it has been posted in a conspicuous place on the immovable property, if any, to which it relates.

**43. Failure to comply.** —(1) If the waste management officer has issued a compliance notice in terms of section 39 to anyone for contravening any provision of this By-law and such person fails to comply with such notice he or she is guilty of an offence.

(2) The waste management officer may, in writing, require any person to submit a report to him or her in respect of the impact of waste in the format stipulated in the Municipality's guidelines as published from time to time.

(3) If the person fails to submit such a report within the period specified, the waste management officer may appoint an independent person to compile the report and recover the costs of compiling the report from the person required to submit it.

(4) If the waste management officer suspects that —

(a) the person has on one or more occasion contravened, or failed to comply with, the By-law or a license issued in terms of provincial or national legislation; and

(b) this has —

(i) had a detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage; or

(ii) contributed to the degradation of the environment,

the waste management officer may direct that such a report be compiled by an independent person.

(5) The waste management officer may then direct the person who failed to comply with the By-Law to take the action recommended in such report, failing which the Municipality may do so, and the person who contravened the By-Law shall be liable for the cost thereof.

**44. Offences.** —(1) A person commits an offence if that person —

(a) litters or dumps —

(i) waste in excess over 8m<sup>3</sup>; or

(ii) any volume of hazardous waste;

(b) spills or allows leakage of —

(i) waste in excess of 8m<sup>3</sup>; or

(ii) any volume of hazardous waste, without putting in place suitable measures;

(c) conveys an uncovered or unsecured load —

(i) of any volume of hazardous waste;

(ii) which results in spillage of —

(aa) waste in excess of 8m<sup>3</sup>; or

(bb) any volume of hazardous waste;

(d) hinders or interferes with —

(i) a service provider;

(ii) a waste disposal facility operator; or

(iii) an authorised municipal official,

in the exercise of their powers or the performance of their duties in terms of this By-law;

(e) contravenes or fails to comply with —

(i) sections 9(3), 9(11) and 9(12) (Building waste);

(ii) section 11(1) (Event waste);

(iii) section 22 (Storage and receptacles for general waste); or

(iv) section 41 (Duty to produce documents);

- (f) contravenes or fails to comply with —
  - (i) section 5 (Obligations of waste generators);
  - (ii) sections 10(1), 10(7), 10(8), 10(13) and 10(14) (Hazardous waste);
  - (iii) sections 11(1) and 11(5) (Event waste);
  - (iv) section 12(1)(b) (Organic waste);
  - (v) section 13(1) (Bulky waste);
  - (vi) section 14(1) (Waste tyres);
  - (vii) sections 23(1), 23(2) and 23(6) (Storage, separation, recycling, re-use, sorting and recovery of waste);
  - (viii) section 24(1) (Prohibition on unauthorised disposal of waste);
  - (ix) section 25 (Prohibition on burning of waste);
  - (x) sections 26(1) and 26(2) (Prohibition on littering and dumping);
  - (xi) section 33 (Collection of unsuitable waste);
  - (xii) section 34 (Waste transfer facility);
  - (xiii) section 35(6) (Disposal of waste); or
  - (xiv) section 51(5) Ownership of waste;
- (g) contravenes or fails to comply with a compliance notice issued in terms of section 39(1) (Compliance notices);
- (h) contravenes or fails to comply with a directive issued in terms of —
  - (i) section 9(2) (Building waste);
  - (ii) section 11(6) (Event waste);
  - (iii) section 12(2) (Organic waste);
  - (iv) section 13(3) (Bulky waste);
  - (v) section 20(8) (Integrated waste management plan);
  - (vi) sections 23(4) and 23(5) (Storage, separation, recycling, re-use, sorting and recovery of waste);
  - (vii) section 24(2) (Prohibition on unauthorised disposal of waste);
  - (viii) section 27(1) (Prohibition of nuisance);
  - (ix) section 37 (Premises inaccessible for waste collection);
  - (x) section 38(1) (Directives); or
  - (xi) section 40(4) (Appeals).
- (i) falsely pretends to be an authorised municipal official or waste disposal facility operator;
- (j) furnishes false or misleading information when complying with a provision of this By-law;
- (k) unlawfully and intentionally or negligently, performs any act or omits to do anything in relation to waste, that detrimentally affects, or is likely to detrimentally affect or impact on health, well-being, public safety and the environment;
- (l) fails to submit or comply with an integrated waste management plan as provided for in this By-law;
- (m) contravenes or fails to comply with a notice contemplated in section —
  - (i) section 9(5) (Building waste);
  - (ii) section 10(2) and 10(8)(c) (Hazardous waste);
  - (iii) sections 14(2) and 14(7) (Waste tyres);
  - (iv) sections 20(11) and 20(12)(b)(iii) (Integrated waste management plan);
  - (v) section 26(4) (Prohibition on littering and dumping);
  - (vi) section 30(2)(d) (Collection and transportation of general waste);
  - (vii) section 40(4) (Appeal); or
  - (viii) section 43 (Failure to comply);
- (n) contravenes or fails to comply with an instruction issued in terms of section 35(3) (Disposal of waste);
- (o) contravenes or fails to comply with a compliance notice issued in terms of section 39;
- (p) contravenes or fails to comply with an integrated waste management plan contemplated in section 20; or
- (q) contravenes or fails to comply with a condition subject to which exemption from a provision of this By-law was granted in terms of sections 21 and 53.

(2) Any person who —  
 (a) induces, influences, persuades or forces an employee of the Municipality or other person to commit an offence in terms of this By-law, or  
 (b) attempts to do so,  
 is guilty of an offence.

(3) Any person who induces an employee of the Municipality to collect and dispose of waste without —  
 (a) the correct payment to the Council; or  
 (b) the correct methods being employed,  
 is guilty of an offence.

**45. Penalties.** —(1) A person convicted of an offence in terms of section 44(1)(a), (b), (c) or (e) is liable to a fine or imprisonment for a period not exceeding one month, and in the case of a second or subsequent conviction, to a fine or imprisonment for a period not exceeding two months, or in both instances, to both such fines and such imprisonment.

(2) A person convicted of an offence in terms of section 44(1)(d), (f), (g), (h), (k), (l), (m), (n), (o), (p) or (q) or section 44(2) or (3) is liable to a fine or imprisonment for a period not exceeding one year, and in the case of a second or subsequent conviction, to a fine or imprisonment for a period not exceeding two years, or in both instances, to both such fines and such imprisonment.

(3) A person convicted of an offence in terms of section 44(1)(i) or (j) is liable to a fine or imprisonment for a period not exceeding two years, and in the case of a second or subsequent conviction, to a fine or imprisonment for a period not exceeding four years, or in both instances, to both such fines and such imprisonment.

(4) A sentence contemplated in subsection (1), (2) or (3) must be determined with due consideration of the —  
 (a) severity of the offence in terms of its impact or potential impact on health, well-being, public safety and the environment;  
 (b) fact that a person delayed in complying with, or failed to comply with, the terms of notices or directions given to that person under this By-law; and  
 (c) monetary or other benefits that accrued, or that were to accrue, to the convicted person through the commission of the offence.

(5) The court may in addition to any penalty imposed in terms of subsection (4), order a person to repair the damage, make good the loss, rehabilitate the environment, remove waste, or determine what measures must be taken by such person and the payment of the expenses incurred in respect thereof or any other costs or damages.

**46. Seizure and impounding of vehicles.** —(1) A peace officer may, without a warrant, seize and impound a vehicle which is concerned or is on reasonable grounds believed to be concerned with the commission of an offence under this By-law.

(2) The peace officer must, at the time of impoundment, give the holder of the seized and impounded vehicle a copy of a notice setting out the —  
 (a) reason for the impoundment;  
 (b) description of the vehicle being impounded;  
 (c) address and contact details of the designated pound;

- (d) payment of an impoundment fee; and
- (e) possibility of the impounded vehicle being sold to recover the costs.

(3) A vehicle which has been seized and impounded in terms of subsection (1) and (2) must be taken to a designated pound where it will be retained and dealt with in terms of subsection (4).

(4) The seized and impounded vehicle will be released immediately under the following conditions:

- (a) if a criminal charge is not laid or no fine is issued within 48 hours of the seizure of the vehicle;
- (b) when the criminal charges against the person have been withdrawn;
- (c) when the person has been acquitted of the offence charged; or
- (d) in the case where the person is convicted of the offence charged, and unless the court has ordered otherwise, on payment of the impoundment fee to the authorised official of the vehicle impoundment facility of the Municipality.

**47. Designation of certain officials** —(1) The municipal manager may—

- (a) designate any staff member of the Municipality as an authorised municipal official;
- (b) designate any staff member of—
  - (i) the Municipality;
  - (ii) any other organ of state; or
  - (iii) a service provider;
 as a waste disposal facility operator, and
- (c) at any time withdraw a said designation.

(2) A designation contemplated in subsection (1)(b)(ii) may be made only by agreement between the municipal manager and the relevant organ of state.

**48. Delegations by waste management officer.** —The waste management officer may delegate to any other official of the Municipality any of his or her powers or obligations in terms of this By-law.

**49. Functions and powers of waste management officer.** —The waste management officer is responsible for —

- (a) regulating and controlling waste management; and
- (b) enforcing the provisions of this By-Law, national and provincial legislation relating to waste management.

**50. Functions of authorised municipal officials and waste disposal facility operators.**

—(1) An authorised municipal official —

- (a) must administer, implement and enforce this By-law; and
- (b) may perform any function assigned to an authorised municipal official by this By-law, including the following: —
  - (i) conducting an inspection,
  - (ii) investigating any act or omission that may constitute an offence in terms of this By-law, and
  - (iii) monitoring and enforcing compliance with this By-law.

(2) A waste disposal facility operator must administer, implement and enforce this By-law at a municipal waste transfer facility, general waste storage facility, recycling facility or waste disposal facility, as the case may be.

**51. Ownership of waste.** —(1) A person who generates waste is the owner of that waste until it is made available by that person for collection by the Municipality or a service provider in accordance with this By-law.

(2) Waste becomes the property of the Municipality once it is made available for collection, whether put out for collection or made available for collection on the private premises concerned.

(3) Subsections (1) and (2) do not apply to waste streams identified in terms of section 30(2)(d) and to waste disposed of unlawfully.

(4) A person who generates waste contemplated in subsection (3) remains the owner of the waste until the waste is disposed of lawfully.

(5) When the premises listed here, are controlled by the Municipality, waste on such premises is the property of the Municipality:

(a) waste disposal facilities;

(b) waste transfer facilities; and

(c) facilities where waste is received, stored, recovered or treated, and

no person may remove from, or interfere with, waste on such premises, unless authorised to do so by the Municipality.

(6) Notwithstanding the provisions of subsections (2) and (5), the Municipality may, by means of a written agreement, transfer ownership of waste to a contractor, an owner of a landfill, a recycler, a rubble crusher, a green waste chipper or other entity, as the case may be.

**52. Liability to pay tariffs.** —(1) The owner of premises for which the Municipality is providing waste management services contemplated in this By-law, is liable for the payment of tariffs in accordance with the Tariff Policy and Tariff By-Law.

(2) The Municipality may exempt or grant a rebate to any person or category of persons that is regarded to be indigent in terms of the municipal indigent policy from paying tariffs for waste management services.

**53. Exemptions.** —(1) A person may apply in writing to the Municipality for exemption from any provision of this By-law.

(2) An application contemplated in subsection (1) must be in a format determined by the Municipality and must be accompanied by a motivation for the exemption.

(3) The Municipality may, in writing, —

(a) grant a full exemption;

(b) grant a conditional exemption;

(c) amend or cancel —

(i) an exemption;

(ii) a condition of an exemption; or

(d) refuse to grant an exemption.

(4) In order to consider an application contemplated in subsection (1), the Municipality may obtain comments from members of the public who would be affected by the granting of the exemption.

(5) If an exemption is granted subject to conditions, the exemption does not take effect until the applicant has submitted a written undertaking to the Municipality that he or she will comply with all such conditions.

(6) If the applicant fails to comply with a condition of the exemption, the exemption is suspended with immediate effect.

**54. Limitation of liability** —Neither the Municipality nor any other person is liable for any damage or loss caused by the —

(a) exercise of any power or the performance of any duty under this By-law; or

(b) failure to exercise any power or perform any duty under this By-law, unless the exercise or performance of, or the failure to exercise or perform such power or duty, is unlawful and —

(i) negligent; or

(ii) in bad faith.

**55. Amendments to waste removal services.** —The Municipality may amend any existing waste removal or cleansing services once a process of public notification, participation and comment has been completed: Provided the amendment is practical, cost effective and has as its objective the —

(a) prevention of the proliferation of waste;

(b) minimisation of waste; or

(c) reduction of waste to be removed.

**56. Transitional provisions.** —(1) Any approval given in accordance with previous By-laws will be valid in respect of the premises for which they were granted and in respect of the person to whom they were granted.

(2) No approval as contemplated in subsection (1) may be transferred to any other person.

**57. Guidelines.** —(1) The Council may issue guidelines to facilitate achievement of the objects and purposes of this By-law not inconsistent with this By-law and any other law.

(2) Any guideline contemplated in subsection (1) must be published in the *Provincial Gazette* and on the Municipality's website.

**58. Repeal of By-laws.** —The By-laws in Schedule 1 hereto are hereby repealed.

**59. Interpretation.** —In the event of a conflict between the English, isiXhosa and Afrikaans versions of this By-law, the English version shall be decisive.

**60. Short title.** —This By-law is called Stellenbosch Municipality: Integrated Waste Management By-law, 2020.

**SCHEDULE 1**

**REPEALED LAWS**



ITEM NUMBER	LEGISLATIVE MANDATE	DESCRIPTION OF POWER OR FUNCTION	RESPONSIBILITY / DELEGATED FROM	DELEGATED TO	SUB-DELEGATED TO	CONDITIONS/ LIMITATIONS/ INSTRUCTION TO ASSIST
<b>Integrated Waste Management By -Law</b>						
IWM1	Integrated Waste Management S5(3)	Conclude a Contract with a Waste Generator	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM2	Integrated Waste Management S6(1)	Granting application for additional containers	Director: Infrastructure Services	Senior Manager: Waste management	Manager: Area Cleaning and Waste Collection	
IWM3	Integrated Waste Management S6(3)	Deciding to provide another container at the cost of the waste generator	Municipal Manager	Director: Infrastructure Services	Senior Manager: Waste management	
IWM4	Integrated Waste Management S6(4)	Awarding a Container to each dwelling or structure on a property	Municipal Manager	Director: Infrastructure Services	Senior Manager: Waste management	
IWM5	Integrated Waste Management S7(1)	Concluding a Contract with an Industrial Waste Generator	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM6	Integrated Waste Management S8(2)	Stipulate Maximum Quantities of Garden Waste that may be collected and imposing conditions regarding disposal of garden waste	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM7	Integrated Waste Management S9(2)	Issue directives to a building waste generator after receiving building plans of a building to be constructed	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM8	Integrated Waste Management S9(5)	Placing a notice in the Provincial Gazette as to the registration process of building waste removal services	Municipal manager	Director: Infrastructure Services		
IWM9	Integrated Waste Management S9(7)	Consider application to register as a building waste remover	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM10	Integrated Waste Management S9(5)	Approval to allow the placement of an appropriate receptacle on a pavement	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	

ITEM NUMBER	LEGISLATIVE MANDATE	DESCRIPTION OF POWER OR FUNCTION	RESPONSIBILITY / DELEGATED FROM	DELEGATED TO	SUB-DELEGATED TO	CONDITIONS/ LIMITATIONS/ INSTRUCTION TO ASSIST
<b>Integrated Waste Management By -Law</b>						
IWM11	Integrated Waste Management S9(15)	Building Inspector to determine if building waste has been disposed off in the prescribed manner	Director: Planning and Economic Development	Snr Manager: Development Management New Post	Manager: Building Development Management	
IWM12	Integrated Waste Management S10(2)	Placing a notice in the Provincial Gazette as to the registration process of Hazardous Waste	Municipal manager	Director: Infrastructure Services		
IWM13	Integrated Waste Management S10(4)	Consider application to register as a Hazardous waste remover	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM14	Integrated Waste Management S10(12)	Publish a list of additional hazardous waste that requires classification	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM15	Integrated Waste Management S11(1)	Approve generating of event waste	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM16	Integrated Waste Management S11(6)	Issue directive for event waste was not cleaned up	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM17	Integrated Waste Management S11(8)	Arrange for waste to be cleaned at the cost of the waste generator	Director: Infrastructure Services	Senior Manager: Waste management	Manager: Area Cleaning and Waste Collection	
IWM18	Integrated Waste Management S12(2)	Issue directive to generate integrated refuse plan for Organic Waste	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM19	Integrated Waste Management S12(3)	Approval to provide an appropriate Organic Waste receptacle	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM20	Integrated Waste Management S13(1)	Approval to remove Bulky Waste	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM21	Integrated Waste Management S13(3)	Issue directive to bulky waste collector to submit monthly reports	Municipal manager			

ITEM NUMBER	LEGISLATIVE MANDATE	DESCRIPTION OF POWER OR FUNCTION	RESPONSIBILITY / DELEGATED FROM	DELEGATED TO	SUB-DELEGATED TO	CONDITIONS/ LIMITATIONS/ INSTRUCTION TO ASSIST
<b>Integrated Waste Management By -Law</b>						
IWM22	Integrated Waste Management S14(2)	Placing a notice in the Provincial Gazette as to the registration process of Waste tyres	Municipal manager	Director: Infrastructure Services		
IWM23	Integrated Waste Management S14(4)	Consider application to register as a waste tyres remover	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM24	Integrated Waste Management S14(7)	Placing a notice in the Provincial Gazette as to the designated facilities that waste tyres may be disposed at.	Municipal manager	Director: Infrastructure Services		
IWM25	Integrated Waste Management S15(1)	Categorize Priority Waste	Director: Infrastructure Services	Senior Manager: Waste management		
IWM26	Integrated Waste Management S16	Approve the removal of abandoned articles	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM27	Integrated Waste Management S17	Emergency procedures to manage waste	Director: Infrastructure Services	Senior Manager: Waste management		
IWM28	Integrated Waste Management S19(1)	Providing special dispensation to waste management clubs	Director: Infrastructure Services	Senior Manager: Waste management		
IWM29	Integrated Waste Management S20(11)	Request information to prepare an Integrated Waste Management Plan	Director: Infrastructure Services	Senior Manager: Waste management		
IWM30	Integrated Waste Management S21(1))	Exempting a waste generator from providing a waste management plan	Director: Infrastructure Services	Senior Manager: Waste management		
IWM31	Integrated Waste Management S23(2)	Awarding accreditation as waste storage, separation, recycling, re-use, sorting and recovering	Director: Infrastructure Services	Senior Manager: Waste management		
IWM32	Integrated Waste Management S23(3)	Exempt waste generators	Director: Infrastructure Services	Senior Manager: Waste management		

ITEM NUMBER	LEGISLATIVE MANDATE	DESCRIPTION OF POWER OR FUNCTION	RESPONSIBILITY / DELEGATED FROM	DELEGATED TO	SUB-DELEGATED TO	CONDITIONS/ LIMITATIONS/ INSTRUCTION TO ASSIST
<b>Integrated Waste Management By -Law</b>						
IWM33	Integrated Waste Management S23(4)	Providing a directive to a waste generator to report	Municipal Manager			
IWM34	Integrated Waste Management S23(5)	Request Waste Generator to separate recyclable waste	Municipal Manager			
IWM35	Integrated Waste Management S24	Issuing directive when a person is contradiction of this By-Law	Municipal Manager			
IWM36	Integrated Waste Management S25	Approval of the burning of waste in a thermal treatment facility	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM37	Integrated Waste Management S26	Issuing notice to an offender that has littered or dumped	Director: Infrastructure Services	Senior Manager: Waste management	Manager: Area Cleaning and Waste Collection	
IWM38	Integrated Waste Management S27	Issuing a notice of prohibition	Municipal Manager			
IWM39	Integrated Waste Management S28	Issuing a license to any person or entity to handle waste	Director: Infrastructure Services	Senior Manager: Waste management	Manager: Area Cleaning and Waste Collection	
IWM40	Integrated Waste Management S29	Setting a schedule for collection and transporting of waste	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM41	Integrated Waste Management S31	Keeping a register of accredited service providers	Director: Infrastructure Services	Senior Manager: Waste management	Manager: Area Cleaning and Waste Collection	
IWM42	Integrated Waste Management S32	Accrediting transporter of waste for gain	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM43	Integrated Waste Management S35	Authorize Municipal Officials to inspect any waste facility	Municipal manager	Director: Infrastructure Services	Senior manager: Waste management	
IWM44	Integrated Waste Management S37	Issuing directive to take specific measures to make the collection of waste possible	Municipal manager			
IWM45	Integrated Waste Management S38	Issuing directives wrt any part of the By Law	Municipal Manager			

ITEM NUMBER	LEGISLATIVE MANDATE	DESCRIPTION OF POWER OR FUNCTION	RESPONSIBILITY / DELEGATED FROM	DELEGATED TO	SUB-DELEGATED TO	CONDITIONS/ LIMITATIONS/ INSTRUCTION TO ASSIST
<b>Integrated Waste Management By -Law</b>						
IWM46	Integrated Waste Management S39	Authorizing an official to issue written compliance notices	Municipal manager	Director: Infrastructure Services		
IWM47	Integrated Waste Management S43	Issuing compliance notices	Director: Infrastructure Services	Senior Manager: Waste management		
IWM48	Integrated Waste Management S48	Designation of certain officials	Municipal manager			
IWM49	Integrated Waste Management S53	Exemptions	Municipal manager			

## INTEGRATED WASTE MANAGEMENT BY-LAW (2020)

## OFFENCES AND FINES

Section Contravened	Description of Offence	Proposed Fine (1)	Approved Fine (2)
44(1)(a)	litters or dumps — (i) waste in excess over 8m <sup>3</sup> ; or (ii) any volume of hazardous waste;	R1000	
44(1)(b)	spills or allows leakage of — (i) waste in excess of 8m <sup>3</sup> ; or (ii) any volume of hazardous waste, without putting in place suitable measures;	R1000	
44(1)(c)	conveys an uncovered or unsecured load — (i) of any volume of hazardous waste; (ii) which results in spillage of — (aa) waste in excess of 8m <sup>3</sup> ; or (bb) any volume of hazardous waste;	R1000	
44(1)(d)	hinders or interferes with — (i) a service provider; (ii) a waste disposal facility operator; or (iii) an authorised municipal official, in the exercise of their powers or the performance of their duties in terms of this By-law;	R500	
44(1)(e)	contravenes or fails to comply with — (i) sections 9(3), 9(11) and 9(12) (Building waste); (ii) section 11(1) (Event waste); (iii) section 22 (Storage and receptacles for general waste); or (iv) section 41 (Duty to produce documents);	R500	

## INTEGRATED WASTE MANAGEMENT BY-LAW (2020)

## OFFENCES AND FINES

44(1)(f)	<p>contravenes or fails to comply with —</p> <ul style="list-style-type: none"> <li>(i) section 5 (Obligations of waste generators);</li> <li>(ii) sections 10(1), 10(7), 10(8), 10(13) and 10(14) (Hazardous waste);</li> <li>(iii) sections 11(1) and 11(5) (Event waste);</li> <li>(iv) section 12(1)(b) (Organic waste);</li> <li>(v) section 13(1) (Bulky waste);</li> <li>(vi) section 14(1) (Waste tyres);</li> <li>(vii) sections 23(1), 23(2) and 23(6) (Storage, separation, recycling, re-use, sorting and recovery of waste);</li> <li>(viii) section 24(1) (Prohibition on unauthorised disposal of waste);</li> <li>(ix) section 25 (Prohibition on burning of waste);</li> <li>(x) sections 26(1) and 26(2) (Prohibition on littering and dumping);</li> <li>(xi) section 33 (Collection of unsuitable waste);</li> <li>(xii) section 34 (Waste transfer facility);</li> <li>(xiii) section 35(6) (Disposal of waste); or</li> <li>(xiv) section 51(5) Ownership of</li> </ul>	R500	
44(1)(g)	contravenes or fails to comply with a compliance notice issued in terms of section 39(1) (Compliance notices);	R1000	

## INTEGRATED WASTE MANAGEMENT BY-LAW (2020)

## OFFENCES AND FINES

44(1)(h)	<p>contravenes or fails to comply with a directive issued in terms of —</p> <ul style="list-style-type: none"> <li>(i) section 9(2) (Building waste);</li> <li>(ii) section 11(6) (Event waste);</li> <li>(iii) section 12(2) (Organic waste);</li> <li>(iv) section 13(3) (Bulky waste);</li> <li>(v) section 20(8) (Integrated waste management plan);</li> <li>(vi) sections 23(4) and 23(5) (Storage, separation, recycling, re-use, sorting and recovery of waste);</li> <li>(vii) section 24(2) (Prohibition on unauthorised disposal of waste);</li> <li>(viii) section 27(1) (Prohibition of nuisance);</li> <li>(ix) section 37 (Premises inaccessible for waste collection);</li> <li>(x) section 38(1) (Directives);</li> <li>or</li> <li>(xi) section 40(4) (Appeals</li> </ul>	R1000	
44(1)(i)	falsely pretends to be an authorised municipal official or waste disposal facility operator;	NAG	
44(1)(j)	furnishes false or misleading information when complying with a provision of this By-law;	NAG	
44(1)(k)	unlawfully and intentionally or negligently, performs any act or omits to do anything in relation to waste, that detrimentally affects, or is likely to detrimentally affect or impact on health, well-being, public safety and the environment;	R2500	
44(1)(l)	fails to submit or comply with an integrated waste management plan as provided for in this By-law;	R1000	

## INTEGRATED WASTE MANAGEMENT BY-LAW (2020)

## OFFENCES AND FINES

44(1)(m)	contravenes or fails to comply with a notice contemplated in section — (i) section 9(5) (Building waste); (ii) section 10(2) and 10(8)(c) (Hazardous waste); (iii) sections 14(2) and 14(7) (Waste tyres); (iv) sections 20(11) and 20(12)(b)(iii) (Integrated waste management plan); (v) section 26(4) (Prohibition on littering and dumping); (vi) section 30(2)(d) (Collection and transportation of general waste); (vii) section 40(4) (Appeal); or (viii) section 43 (Failure to comply);	R2 500	
44(1)(n)	contravenes or fails to comply with an instruction issued in terms of section 35(3) (Disposal of waste);	R1 000	
44(1)(o)	contravenes or fails to comply with a compliance notice issued in terms of section 39;	R1 000	
44(1)(p)	contravenes or fails to comply with an integrated waste management plan contemplated in section 20; or	R1 000	
44(1)(q)	contravenes or fails to comply with a condition subject to which exemption from a provision of this By-law was granted in terms of sections 21 and 53.	R2 500	
44(2)	Any person who — (a) induces, influences, persuades or forces an employee of the Municipality or other person to commit an offence in terms of this By-law, or (b) attempts to do so,	NAG	

## INTEGRATED WASTE MANAGEMENT BY-LAW (2020)

## OFFENCES AND FINES

44(3)	Any person who induces an employee of the Municipality to collect and dispose of waste without — (a) the correct payment to the Council; or (b) the correct methods being employed,	NAG	
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NAG = No Admission of Guilt fine allowed