

Draft amendment for public comment 2021

OVERSTRAND LOCAL MUNICIPALITY

INTEGRATED WASTE MANAGEMENT BY-LAW, [2013] 2021

To regulate the provision of solid waste storage, removal, recycling, treatment and disposal services in the area of jurisdiction of the Overstrand Local Municipality and to provide for matters connected therewith.

Be it enacted by the Municipal Council of the Overstrand Local Municipality, in terms of Section 156(2) of the [National] Constitution read with Section 11(3)(m) of the Local Government: Municipal Systems Act, [2000 (]Act 32 of 2000[)], as follows:-

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from the existing enactments;

Words in bold type underlined with a solid line indicate insertions in existing enactments.

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CHAPTER 1 GENERAL PROVISIONS

Definitions and interpretation

1. In this By-law and the Schedule thereto, words used in the masculine gender include the feminine, the singular includes the plural and vice versa; in the event of a conflict between **[die] the** English and Afrikaans versions of this By-law, the English version shall be decisive; and unless the context otherwise indicates -

“accredited service provider” means a person or entity accredited by and registered with the Municipality and having obtained an authorisation to collect and transport specified types of waste in the municipal area;

“agricultural and farm waste” means all waste generated on farms as part of agricultural processes or through ordinary domestic and business activities and may include different types of waste;

“animal proof container” means an approved waste container **which prevents problem animals from gaining access to waste in a waste container [protects the contents from problem animals]**, as required by the Municipality in specific areas;

“applicable charge” means the rate, charge, tariff, flat rate, subsidy or any other cost prescribed by the Municipality from time to time;

“approved” in the context of bins, bin liners, refuse bags, containers, receptacles and wrappers, means approved by the Municipality or an accredited service provider for the collection and storage of waste;

“approved container” means a container approved for the temporary storage of domestic or business waste until removed by the municipality or an approved service provider;

“approved business waste container” means a receptacle with a storage capacity of 240 litre or any other approved container prescribed by the Municipality;

“approved domestic waste container” means a receptacle with a storage capacity of 240 litres or any other approved container prescribed by the Municipality including a refuse bag **[until 30 June 2015]**;

“authorised official” means a waste management officer or other person in the employ of the Municipality, authorised by the Municipality for the purposes of this By-law, or if the Municipality has appointed a **[municipal]** service provider to perform municipal **waste management** services, an employee of such service provider, authorised by it as an authorised official in terms of this By-law and acting within the scope of the powers, functions and duties assigned to that municipal service provider by the Municipality in terms of section 81(2) of the Systems Act or another applicable law;

“building waste” means waste produced during the construction, alteration, repair or demolition of any structure both manmade or natural, and includes rubble, earth, vegetation, wood and rock displaced during such construction, alteration, repair or demolition but excludes hazardous waste and garden waste;

“bulky waste” means waste which can be classified as domestic or business waste but which, by virtue of its mass, shape, size or quantity, cannot **readily [easily]** be accumulated in or removed from an approved container **during [in the]** routine door-to-door waste removal service provided by the municipality or a service provider;

“business waste” means waste, other than hazardous waste, health care waste, building waste, industrial waste, garden waste, bulky waste, special waste and special industrial waste generated on premises used for non-residential purposes and at residential premises where commercial activities are **[being]** conducted;

“by-product” means a substance that is produced as part of a process that is primarily intended to produce another substance or product and that has the characteristics of an equivalent virgin product or material;

“clean building waste” means the inert waste produced during the construction, alteration, repair or demolition of any structure both manmade or natural thus including rubble but excluding building materials such as cement bags, paint holders, window frames, carpets as well as earth, vegetation, wood and rock that are displaced during such construction, alteration, repair or demolition processes;

“collection” means the act of collecting domestic or business waste at the place of generation or storage by the Municipality or an accredited service provider and removal has a similar meaning;

“commercial services” means any waste management service, relating or connected to accumulating, collecting, managing, recycling, sorting, storing, treating, transporting, disposing, buying or selling of waste or any other manner of handling waste excluding municipal services rendered by the Municipality;

“Community Scheme” has the meaning assigned to it in the Community Schemes Ombud Service Act, Act 9 of 2011

“Compost” means a stabilised, homogenous, fully decomposed substance of animal or plant origin to which no plant nutrients have been added and that is free of substances or elements that could be harmful to human beings, animals, plants or the environment;

“Composting” means a controlled biological process in which organic materials are broken down by micro-organisms into compost;

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

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

“DEA” means the national Department of Environmental Affairs;

“DEA&DP” means the provincial Department of Environmental Affairs and Development Planning;

“domestic hazardous waste” means, **but is not limited to**, hazardous waste generated in a household in minimum quantities consistent with the home use of materials such as paints and solvents, automotive wastes, pesticides, electronics, aerosols, cleaning agents, batteries, fluorescent lamps and refrigerant containing appliances;

“domestic health care waste” means, **but is not limited to**, health care waste generated in a household in minimum quantities consistent with the home use of materials for medical purposes and includes waste such as syringes, unused medicines and pills, used bandages, that could cause a health hazard when not appropriately disposed of;

“domestic waste” means waste that emanates from premises used wholly or mainly for--

- (a) residential purposes, such as a dwelling house, flat, boarding house, old age home or group development;
- (b) educational, sport or recreational purposes;
- (c) purposes of public worship, including a hall or other building used for religious purposes, and includes domestic health care waste and domestic hazardous waste but excludes hazardous waste, business waste, building waste, garden waste, bulky waste, special waste, liquid matter or night soil;

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

“DWA” means the National Department of Water Affairs;

“ECA” means the Environment Conservation Act, [1989 (] Act 73 of 1989 [])] and any regulations made in terms thereof, or any superseding legislation;

“EIA” means an [environmental impact assessment] **Environmental Impact Assessment** as contemplated in NEMA, and/or the ECA and the EIA Regulations as published in Government Notice R [1183] **982** on [5 September 1997] **4 December 2014**, as amended from time to time;

“enforcement notice” means any notice issued by an authorised official under this By-law which instructs the person to whom it is issued to comply with the terms of the notice, and includes a compliance notice contemplated in section 57;

“environment” means the individual parts and total sum of all elements, properties, conditions and the like making up the surroundings within which living organisms exist and any part or combination of the interrelationships among and between them;

“environmental emergency” means any situation that has caused or may cause serious harm to human health or damage to the environment, irrespective of whether the potential for harm or damage is immediate or delayed;

“environmental restoration cost” means the full cost of all measures necessary to restore the environment to its condition prior to an incident which caused damage to it, and in the event of this not being possible the value of the cost benefit that has been lost through the damage to or destruction of the environment;

“event organiser” means a person who organises an event requiring an event permit in accordance with the Overstrand municipality’s Events By-law;

“event permit” means a permit issued by the Municipality in terms of the Overstrand Municipality Integrated Waste Management By-law, 2020 and the Overstrand Municipality Events By-law for the holding of an event;

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

“e-waste” means, **but is not limited to**, electric and electronic equipment waste such as lighting equipment, circuit boards, mobile phones, computers, television sets and audio visual equipment that are still mainly treated as domestic or business waste but with a high need and potential for recycling;

“garden services activities” means the provision of gardening services including the cutting or mowing, of grass, pruning of trees or any other horticultural activity including landscaping, to any domestic, business, commercial, education and training, recreational, institutional or industrial premises;

“garden waste” means organic waste which emanates from domestic gardening activities, including grass cuttings, leaves, plants, flowers, branches, tree stumps and other similar waste, but excludes waste products of animal origin or bulky waste;

“general waste” means waste that does not pose an immediate hazard or threat to health or to the environment, and includes domestic waste; business waste; building waste; inert waste and garden waste;

“General waste storage facility” means a storage facility that has the capacity to store in excess of 100 cubic metres of general waste continuously;

“group development” means a high density residential development with common property and/or facilities and which is managed by a home owners’ association, body corporate or other managing body;

“hazardous chemical substance” means any toxic, harmful, corrosive, irritant or asphyxiant substance, or a mixture of such substances for which-

- (a) an occupational exposure limit is prescribed;
- (b) an occupational exposure limit is not prescribed but which creates a hazard to health and the environment;

“hazardous waste” means any waste that contains organic or inorganic elements or compounds that may, owing to the inherent physical, chemical or toxicological characteristics thereof, have a detrimental impact on health and the environment;

“health care risk waste” means all hazardous waste generated at any health care facility such as a frail care centre, hospital, clinic, laboratory, medical research institution, dental or medical practitioner or veterinarian including but not limited to infectious waste, pathological waste, sharp waste, pharmaceutical waste, genotoxic waste, chemical waste, pressurized container waste, waste with heavy metals, radio-active waste, or any waste that has been in contact with blood, bodily fluids or tissues from humans or infected animals from veterinary practices;

“health care waste” means all waste generated by or derived from medical care or medical research including but not limited to infectious waste, pathological waste, sharp waste, pharmaceutical waste, genotoxic waste, chemical waste, pressurized container waste, waste with heavy metals, radio-active waste, or any waste that has been in contact with blood, bodily fluids or tissues from humans or infected animals from veterinary practices;

“holder of waste” means any person or entity that imports, generates, collects, handles, accumulates, stores, transports, transfers, processes, treats, trades, exports, recovers, recycles, re-uses or disposes of waste including sorters of waste such as recycling or waste minimisation groups, scrap dealers and buy-back centres;

“industrial waste” means waste generated as a result of manufacturing, industrial, fabricating, processing, dismantling or maintenance activities and may include waste generated by commercial agricultural, mining or power plant activities but does not include any other category of waste;

“inert waste” means waste that—

- (a) does not undergo any significant physical, chemical or biological transformation after disposal;

- (b) does not burn, react physically or chemically biodegrade or otherwise adversely affect any other matter or environment with which it may come into contact; and
- (c) does not impact negatively on the environment, because of its pollutant content and because the toxicity of its leachate is insignificant;

“infectious waste” means waste which is generated during diagnosis, treatment or immunization of humans or animals, in the research pertaining to this, in the manufacturing or testing of biological agents including blood products, cultures, pathological waste, sharp objects, human and animal anatomical waste and isolation waste that contain or may contain infectious substances;

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

“interest” means a levy with the same legal property as service fees and calculated in terms of this By-law on all amounts in arrears in respect of prescribed fees for waste management services at a standard rate equal to an interest rate as determined by the Customer Care, Credit Control and Debt Collection By-law of the Municipality;

“IPWIS” means the online Integrated Pollutant and Waste Information System of the Western Cape [Government as established in accordance with the national and provincial legislative and policy framework including NEM:WA] Department of Environmental Affairs and Development Planning ;

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

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

“material recovery” means any process where material is removed from the waste stream with the purpose to re-use, recycle or treat the material so removed;

“minimisation” means the steps [are] taken by the Municipality, residents, businesses and industries to avoid and reduce the amount and toxicity of waste generated and disposed of;

“Minister” means the Minister of the Department of Environmental Affairs;

“municipal council” means a municipal council contemplated in section 157 of the Constitution of the Republic of South Africa, 1996;

“municipal indigent policy” means a policy for indigent users approved by the Municipality;

“Municipality” means –

- (a) the Overstrand Local Municipality established in terms of Section 12 of the Structures Act by Provincial Notice No. P.N. 494/2000 [488/2000] or its successors in title, and includes a structure or person exercising a delegated power or carrying out an instruction in terms of this By-law and legislation applicable to local government; or
- (b) a municipal service provider fulfilling a responsibility under this By-law, assigned to it in terms of section 81(2) of the Systems Act or any other law, as the case may be;

“municipal manager” means the person appointed as the municipal manager by the Municipality in terms of section 82 of the Municipal Structures Act;

“municipal service” means the municipal service relating to the collection of waste, including domestic waste, business waste and dailies and related waste activities provided by the Municipality or a municipal service provider on behalf of the Municipality, in accordance with this By-law;

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

“NEMA” means the National Environmental Management Act, [1998 (] Act 107 of 1998[)];

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

“nuisance” in the context of this by-law, means any injury, harm, damage, inconvenience or annoyance to any person which is caused in any way whatsoever by the improper handling or management of waste, including but not limited to, the **generation**, storage, placement, collection, transport or disposal of waste **[or by] including** littering;

‘occupier’ means a person who occupies any premises or part thereof, without regard to the title under which he or she so occupies, and includes –

- (a) any person in actual occupation of those premises;
- (b) any person legally entitled to occupy those premises;
- (c) in the case of those premises being subdivided and let to lodgers or various tenants, the person receiving the **[rent] rental** payable by such lodgers or tenants whether on the person’s own account or as agent for any person entitled thereto or interested therein;
- (d) any person having the charge of or management of those premises, and includes the agent of any such person when the person is absent from the Republic of South Africa or his or her whereabouts are unknown; or
- (e) the owner of those premises;

“organic waste” means waste of biological origin which can be broken down, in a reasonable period, into base compounds by micro-organisms and other living things or by other forms of treatment, and includes garden waste, animal carcasses, food waste and wood waste;

“property owner” includes -

- (a) **[the person in whom is vested the legal title to premises, including, but not limited to,]** the registered owner **in terms of [according to]** the title deed;
- (b) where the **registered owner [person in whom the legal title to the premises is vested]** is insolvent or **deceased [dead]**, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in any case where the Municipality is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such premises or a building or buildings thereon; and
- (d) in the case of premises for which a lease agreement of ten years or longer has been entered into and registered in the Deeds Office, the lessee thereof;
- (e) in relation to
 - (i) a **portion [piece]** of land **indicated [delineated]** on a sectional plan registered in terms of the Sectional Titles Act, [1986 (] Act 95 of 1986 [)], the developer or the body corporate in respect of the common property; or
 - (ii) a section as defined in the Sectional Titles Act, the person in whose name such section is registered under a **Certificate of Registered Sectional Title [sectional title deed, and includes**

the lawfully appointed agent of such a person];

- (f) the person who has purchased immovable property from the Municipality, in terms of a scheme that allows for the purchase price to be paid in instalments and who has not received transfer from the Municipality;

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

“person” means any natural **or juristic** person, **such as a** local government body or like authority, a company incorporated **in terms of the Companies Act 2007, [under any law,] a Close Corporation established in terms of the Close Corporation Act, [a]** body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

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

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

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

“prescribed” means, determined by resolution of the Municipal Council from time to time;

“prescribed fee” means a fee including a tariff or charge determined by the Municipal Council by resolution;

“prescribed tariff” means a schedule of prescribed fees as entailed in the Municipality’s Tariff By-laws;

“priority waste” means waste declared to be such by the Municipality or in terms of national or provincial legislation and may call for emergency measures to be taken by the Municipality;

“problem animal areas” means areas identified from time to time by the Municipality where animals behave in a way that creates problems;

“public notice” means notice to the public in a manner determined by the Municipality;

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

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

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

“receptacle” means **[an approved] a container approved by the Municipality** for the purpose of temporary storage of domestic waste or business waste until removal thereof by the Municipality or an accredited service provider;

“recovery” means a process where waste is reclaimed, which process **may [could]** involve the separation of waste from a waste stream for further use;

“recyclable waste” means waste that **can [could]** be separated from the waste stream and set aside for purposes of re-use or recycling;

“recycling” means a process where recovered waste is further processed as a product or raw material;

“refuse” means domestic waste and business waste which is of such a size and form that it **can [could]** be deposited in an approved domestic waste container or an approved business waste container or any other matter which in the opinion of the Municipality constitutes refuse;

“refuse bag” means a plastic bag at least 22 micron thick with dimensions of 750mm x 950mm or as otherwise prescribed by the Municipality and the same applies to a bin liner;

“responsible person” in relation to waste, means a person who-

- a) **generates the waste;**
- b) **is the owner of the land on which the waste has been disposed of; or**
- c) **was in control of the waste when disposed of;**

“safety data sheet” means the information sheet to be completed by all generators of hazardous waste in accordance with relevant regulations and the latest edition of SANS 10234 – Globally Harmonised System of Classification and Labelling of Chemicals GHS and to be in the possession of all holders of waste that handles such hazardous waste;

“SANS” means South African National Standard;

“SAWIS” means the national waste information system established by the national government in accordance with NEM:WA;

“service delivery agreement” means an agreement between the Municipality and a person in terms of which a municipal service is provided by that person, either for that persons own account or on behalf of the Municipality;

“service provider” means a person who provides a municipal service in terms of a service delivery agreement with the Municipality;

“special industrial waste” means waste consisting of a liquid, sludge or solid substance, resulting from a manufacturing process, industrial treatment or the pre-treatment for disposal purposes of any industrial or mining liquid waste;

“special waste” means a non-hazardous industrial waste that may include a number of waste types which has physical or chemical characteristics, or both, that requires special handling at a waste disposal facility such as contaminated soil, raw animal manure, dead animals and any other material determined to be special waste by the Municipality;

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

“**Structures Act**” means the Local Government: Municipal Structures Act, [1998 (] Act 117 of 1998 [)];

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

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

“**tariff**” means the annually revised user charge for the provision of the municipal service, determined and promulgated by the Municipality through its Tariff By-laws in terms of the Systems Act;

“the Waste Act” means the National Environmental Management: Waste Act, Act 59 of 2008;

“**transport**” means the **moving or relocation** [movement] of waste from one place to another;

“**waste**” means any substance, whether or not that substance can be reduced, re-used, recycled and recovered—

- (a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;
- (b) which the generator has no further use of for the purposes of production
- (c) that must be treated or disposed of; or
- (d) that is identified as a waste by the Minister by notice in the Gazette, and includes waste generated by the mining, medical or other sectors, but—
 - (i) a by-product is not considered waste; and
 - (ii) any portion of waste, once re-used, recycled and recovered ceases to be waste;

“**waste disposal facility**” means any site or premise which receives waste for treatment or disposal thereof, and which is operated in terms of a license obtained from a statutory regulatory authority;

“waste facility operator” means a person designated in terms of section 54(1) as the waste facility operator;

“**waste handling facility**” means any site or premise that receives, accumulates, handles, recycles, sorts and temporarily stores or treats waste prior to its transfer for final disposal and is operated **in compliance with Gazetted norms and standards or** in terms of a license obtained from a statutory regulatory authority;

“**waste information system**” means IPWIS ;

“**waste management activity**” means any one or more of the activities, as listed in and from time to time amended by NEM:WA, that a holder of waste may be involved in;

“waste management hierarchy” means a method of managing waste in the following order:

avoidance;

reduction;

reuse;

recycling;

recovery;

treatment; and
disposal

“waste management officer” means a person designated by the Municipality to be responsible for co-ordinating matters pertaining to waste management for the Municipality;

“waste management plan” means a waste management plan required by the Municipality in terms of this By-law and NEM:WA;

“waste management services” means services that relate to any one or more of the waste management activities;

“waste manifest documents” means the control documents containing information as legally prescribed and maintained by the holders of waste involved; which documents must accompany each load of hazardous waste from point of generation to final management of it;

“waste removal system” means a system by means of which refuse is removed and disposed of by the Municipality;

“waste stream” means waste which is separated into different types of waste, including building and demolition waste, bulky waste, domestic waste, garden waste, hazardous waste, health care risk waste, industrial waste and recyclable waste.

“waste tyre” means a new, used, **[retreaded] re-treaded**, or un-roadworthy tyre, not suitable to be **[retreaded] re-treaded**, repaired or sold as a part worn tyre and not fit for its original intended use **[and the storage, stockpiling and disposal]**;

“working day” means a day other than a Saturday, Sunday or public holiday but in the context of the Municipality’s waste handling and waste disposal facilities it includes all calendar days except Sundays, religious public holidays and New Year’s Day or as determined by the Municipality.

Principles

2. (1) The Municipality **is statutorily obligated and responsible [has the responsibility]** to ensure that all waste generated within the municipal area is—
 - (a) collected, disposed of or recovered in accordance with this By-law; and
 - (b) such collection, disposal or recovery takes account of the waste management hierarchy outlined in subsection (2).
- (2) The principle underpinning this By-law is the establishment of a waste management hierarchy in the following order of priority—
 - (a) avoidance, minimisation and reduction of waste;
 - (b) re-use of waste;
 - (c) recycling, re-claiming, reprocessing and treatment of waste; and
 - (d) disposal of waste.
- (3) An official authorised in terms of this By-law must as **far as** is reasonably possible, take the hierarchy specified in subsection (2) into account.
- (4) **The application of this By-law must promote the sustainable development and a healthy environment through the management of waste within the area of the Municipality and responsible citizenship by the residents to ensure sound waste management practices.**

Main objects

3. (1) The main objects of this By-law are—
- (a) to regulate the collection, handling, storage, **[transport] transportation**, recycling, treatment and disposal of waste;
 - (b) to regulate the pursuance of an integrated waste management approach;
 - (c) to regulate the provision of municipal services by a municipal service provider and commercial services by accredited service providers; and
 - (d) to enhance sustainable development.
- (2) In pursuing the main objects of this By-law, the Municipality shall, within its financial and administrative capacity—
- (a) endeavour to ensure local community involvement in local waste planning;
 - (b) endeavour to minimise the consumption of natural resources;
 - (c) promote the recycling and re-use of waste;
 - (d) encourage waste separation to facilitate re-use and recycling;
 - (e) promote the effective resourcing, planning and delivery of municipal services and commercial services;
 - (f) endeavour to achieve integrated waste management, planning and services in a local context;
 - (g) promote and ensure environmentally responsible municipal services and commercial services; and
 - (h) endeavour to ensure compliance with the provisions of this By-law.

Duties and obligations

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

(f) _____ [remedy] rehabilitate the effects of the pollution or degradation to the environment.

CHAPTER 2

INTEGRATED WASTE MANAGEMENT

Waste management plans

5. (1) The Municipality shall—
- (a) establish, review and revise its integrated waste management plan in accordance with the prescripts [prescriptions] of national and provincial legislation;
 - (b) annually report on the implementation of its integrated waste management plan; and
 - (c) follow prescribed processes of community consultation in terms of subsections (1)(a) and (b).
- (2) All events organised and hosted in the municipal area must at least one month prior to the event taking place submit to the Municipality **[a] an event** waste management plan that includes the waste management services to be provided and such other information as required by the Municipality.
- (a) **The plan must detail ...**
 - a. **how waste will be minimised and recovered for recycling; and**
 - b. **the person responsible for, and the measures in place for, clean-up, collection, recycling and disposal of the event waste.**
 - (b) **The event organiser must ensure that the event waste is disposed of at an authorised waste disposal facility and provide the Municipality with proof of the disposal.**
 - (c) **If any event waste has not been cleaned up and collected after an event has been held, the municipal manager or the delegated authority may issue a directive to the event organiser or responsible person to remove the waste to an authorised waste disposal facility.**
 - (d) **If-**
 - a. **an event organiser or responsible person fails to comply, or inadequately complies with a directive contemplated in sub section (c);**
 - b. **there is uncertainty as to the identity or whereabouts of the event organiser or responsible person; or**
 - c. **there is an immediate risk of serious danger to the public or potentially serious detriment to the environment;****the Municipality may take any measures it considers necessary to clean-up, collect and dispose of the event waste.**
 - (e) **The municipality may recover the costs incurred by it in terms of subsection (c) from the event organiser and any responsible person, jointly and severally.**
- (3) The Municipality may grant **[conditional]** exemption in terms of subsection (2) depending on the size, nature and duration of the event;
- (4) An owner or occupier or any other person responsible for a new development must submit to the Municipality an integrated waste management plan including such information as the Municipality requires prior to the **commencement [start]** of the development and also during the development, if so requested by the Municipality.
- (5) The Municipality shall require a holder of waste involved in a waste management activity listed in

terms of section 19 of NEM:WA to submit its integrated waste management plan to the Municipality within a specified time and thereafter at intervals coinciding with the requirements of national and provincial legislation or standards.

- (6) The Municipality may require from any other holder of waste excluding domestic waste to submit within a reasonable time and thereafter at intervals determined by the Municipality an integrated waste management plan containing such information as the Municipality deems necessary or, if applicable, a copy of its industry waste management plan as required by national legislation. **Such a plan must include the following information:**
- a. **The quantity of waste generated;**
 - b. **measures to prevent pollution or ecological degradation;**
 - c. **targets for waste minimisation through waste reduction, re-use, recycling and recovery;**
 - d. **measures or programmes to minimise the generation of waste and final disposal of waste;**
 - e. **measures or actions to manage waste**
 - f. **opportunities for the reduction of waste generation through changes to packaging, product design or production processes**
 - g. **mechanisms for informing the public of the impact of waste-generating products or packaging on the environment;**
 - a. **the period that is required for the implementation of the plan; and**
 - b. **methods for monitoring and reporting on the implementation of the plan.**
- (7) If an integrated waste management plan as referred to in subsections (4), (5) or (6) is in any way **[changed or]** amended, the holder of waste must submit such **[changed or]** amended plan to the Municipality immediately after the amendment has been made.

Waste information system

6. (1) The Municipality shall establish and maintain a waste information system including information on the levels and extent of waste management services provided by it and enter such information on the **SAWIS or** IPWIS as and when required.
- (2) The Municipality may require from a holder of waste **[or any person]** to furnish the Municipality within a reasonable time or on a regular basis with such data, documents, information, samples or materials and the verification of information reasonably required by the Municipality to discharge its responsibilities in terms of subsection (1).
- (3) The Municipality may request a person or holder of waste that it reasonably **[believe] believes** should be registered on the IPWIS and/or the national waste information system (**SAWIS**) to effect such registration and submit proof thereof to the Municipality or to submit proof of not conducting a waste management activity obligating such registration within a time that the Municipality regards as reasonable.

Waste minimisation and recycling

7. (1) The Municipality shall in accordance with its responsibilities and its resources progressively implement measures to reduce waste and promote the recovery, re-use and recycling of waste including waste separation at source in respect of appropriate levels of services.
- (2) The Municipality may on a regular basis and in a manner it deems suitable acknowledge outstanding achievements in respect of waste avoidance, waste minimisation, recycling or other waste management practices advancing environmentally responsible integrated waste management.

Waste management activities

8. (1) The Municipality may require a holder of waste in possession of or responsible for waste that must be classified, recorded, labelled or in any way assessed or re-assessed, to submit proof of compliance with the relevant **prescripts [prescriptions]** of national and provincial legislation and standards as applicable thereto and the Municipality will **[strictly]** adhere to any such legislation and/or standards in respect of its own waste management activities.
- (2) The Municipality's approval, inspection and monitoring of waste storage facilities, vehicle scrapping or recovery facilities and any other facilities where materials suitable for re-use or recycling are recovered, shall be in accordance with national and provincial legislation and standards and the Municipality's **[by-laws] By-laws** and will require the owners or occupiers of these premises to submit such information, plans and records as the Municipality deems necessary to fulfil its duties as a waste management authority.

CHAPTER 3

COLLECTION OF REFUSE

Levels of service

9. (1) The levels of refuse collection may differ between areas based on the practicality and cost-efficiency of delivering the service. Service levels in areas may vary between:
 - (a) on-site appropriate and regularly supervised or monitored disposal;
 - (b) community transfer to a central collection point;
 - (c) organised transfer to a central collection point and kerbside collection; and
 - (d) a combination or hybrid of (b) and (c).
- (2) Before affecting changes to the existing refuse removal system the Municipality will consult the affected communities or areas and give adequate notice of the commencement of new arrangements.

Agreement of service

10. (1) The Municipality shall render a service for the collection of business and domestic refuse from built upon premises at a prescribed fee and the owner or occupier of such premises shall make use of the refuse collection service **so** provided **[by the Municipality]**.
- (2) The occupier of premises or, in the case of premises being occupied by more than one occupier, the owner of such premises on which business or domestic waste is generated, shall where a collection service is available, within seven days of such occupation or changes in such occupation notify the Municipality in writing—
 - (a) that the premises is **[being]** occupied by one or more occupier; and
 - (b) whether the collection service is for business or domestic purposes.
- (3) **[If the applicant for services in terms of subsection (2) is not the owner, the Municipality shall require any owner to be bound jointly and severally as surety and co-principal debtor with the consumer, for the payment of any prescribed fees payable to the Municipality in terms of this By-law].**

- (4) The refuse collection service rendered in terms of subsection (1) shall be in accordance with the agreement for services concluded with the Municipality [;] which agreement **may, [shall,]** subject to the terms, conditions and prescribed fees determined by the Municipality, be amended in writing to make provision for an increase in the frequency and/or volume of the refuse removal service rendered should it be required by the Municipality in giving effect to this By-law or in response to a request by the owner or occupier of residential or business premises.
- (5) An owner or occupier of premises may contract with an accredited service provider to collect its refuse but shall not be entitled to **an** exemption from or a reduction in the prescribed fee determined by the Municipality merely on the grounds that no or limited use is made of the service rendered by the Municipality.
- (6) An owner or occupier of premises is liable **for payment** to **[pay]** the Municipality **of** the prescribed **[fee] fees** for the provision of refuse collection services on the due date for payment stipulated in the account, failing which the Municipality will deal with the matter in accordance with its Customer Care, Credit Control and Debt Collection **Policy [By-laws]**. **The Municipality may exempt any person or category of persons that is regarded to be indigent in terms on the municipal indigent policy from paying tariffs for waste management services.**
- (7) Availability tariffs may be charged on vacant plots, as determined by the Municipality from time to time.
- (8) The Municipality will determine which waste items are unsuitable for collection because they do not constitute domestic waste or business waste or could be classified as bulky waste, and if waste is determined to be unsuitable for collection, a process for removal and disposal of such waste shall be recommended by the Municipality to the owner of the waste or occupier of the premises.
- (9) If the Municipality's scheduled refuse collection services are interrupted for whatever reason, the Municipality will resume the service as soon as reasonably possible and address backlogs as a matter of priority.
- (10) Complaints about the refuse collection service will be dealt with in accordance with the Municipality's Consumer Care Charter for Solid Waste Services.
- (11) The owner or occupier of premises must notify the Municipality in writing when the removal of refuse is no longer required in which case the prescribed fees shall be payable until the end of the calendar month following **[after]** the month in which the notice is received unless subsection 10(5) applies.

Frequency

- 11.** (1) The Municipality shall collect domestic waste and business waste at least once per week on scheduled dates for different areas. Occupiers or owners of premises will be informed of revised collection arrangements reasonably in advance by one or more appropriate methods.
- (2) The Municipality will determine which business premises generate waste that **may [can]** be regarded as dailies and may instruct an increase in the frequency of refuse collection from such premises as provided for in section 10(4).
- (3) If the Municipality is of the opinion that a business creates a nuisance, health risk, odour or danger to public health due to the fact that refuse is not removed during weekends, the Municipality may

instruct the owner or occupier to make use of an additional refuse collection service rendered at a prescribed fee by the Municipality.

- (4) An owner or occupier of a business premises that receives a refuse removal service once per week may apply to the Municipality in writing to increase the **frequency [number]** of refuse removals to multiple times per week including Saturdays, Sundays or public holidays if a service is available on these days in its area and as further provided for in section 10(4).
- (5) Visitors that leave before collection day must place their refuse in containers supplied in the area for that purpose or take their refuse to the nearest waste handling facility as directed by the Municipality.

Volume

- 12. (1) The Municipality shall determine—
 - (a) the number of receptacles to be collected from each residential premises per collection;
 - (b) the number of receptacles to be collected from each business premises per collection based on an inspection of the waste volumes with the owner or occupier; and
 - (c) the maximum **volume [amount]** of business waste that may be placed for collection without the provision of an additional service or the payment of an additional prescribed fee.
- (2) Should the Municipality require the provision of an additional service to a residential or business premises or the owner or occupier of a residential or business premises **applies [apply]** to the Municipality in writing to increase the number of receptacles to be collected per collection from its premises, these changes will be effected as provided for in section 10(4).

Receptacles

13. (1) The Municipality will collect domestic waste placed in approved domestic waste containers and business waste placed in approved business waste containers from a location and in a condition as determined in this By-law or any notice in terms of this By-law. Waste placed in a location not meeting the **requirements [prescriptions]** of the Municipality or a receptacle not approved by the Municipality will not be collected.
- (2) The owner or occupier of residential or business premises shall be responsible for marking his receptacle/s with the stand number to ensure easy identification thereof and to assist the municipal employees to return it to the correct stand.
- (3) Receptacles for the temporary storage of waste at business and residential premises must be intact, not corroded or worn out and fit for the safe storage of waste **[:] to ensure [such]** that damage to the environment and harm to health are prevented.
- (4) No person may allow an animal in his or her control to interfere with, overturn or damage a receptacle which has been placed for collection.
- (5) The owner or occupier of business or residential premises must ensure that—
- (a) a receptacle contains no hot ash, unwrapped glass or other domestic waste, business waste including dailies which may cause injury to the municipal employees while carrying out their duties in terms of this By-law or damage to the receptacle;
 - (b) no material, including any liquid, which by reason of its mass or other characteristics is likely to render a receptacle unreasonably difficult for the municipal employees to handle or carry, is placed in such receptacle;
 - (c) receptacles are kept closed to avoid animal and insect interference and wind-blown litter and in a clean and hygienic condition;
 - (d) receptacles are placed outside the entrance to the premises before 07:00 on the day of the week specified by the Municipality for waste removal and taken back inside before sunset on the same day or such other location or times as required by the Municipality in terms of a written notice to the owner or occupier of the premises;
 - (e) in accordance with the Municipality's specifications, whether contained in approved building plans or a Municipal Council notice, a designated space and any other facility deemed necessary by the Municipality are provided on the premises for the storage of receptacles without **being [these been]** visible from a public road or public place and the designated space so allowed permitting convenient access to and egress **from** for the Municipality's waste collection vehicles;
 - (f) the pavement in front of or abutting the premises is kept clean and free of refuse.
- (6) If dailies are generated, the owner or occupier must ensure that—
- (a) the dailies are not placed in a receptacle where they could contaminate another waste stream;
 - (b) the receptacles are placed in a designated area easily accessible from the entrance of the premises from where the waste **may be [is]** collected by the Municipality.
- (7) Notwithstanding anything to the contrary contained in this By-law, the Municipality may, having regard to the avoidance of **causing** a nuisance and the convenience of collection of waste, indicate a specific position within or outside the premises concerned where approved receptacles must be placed for [the] **their** collection and removal **[of waste]** and such receptacles must then be placed in that position at such times and for such period as the Municipality may require.

- (8) No owner or occupier of premises is allowed to place any refuse bags or other receptacles containing waste other than domestic or business waste outside the premises unless approved by the Municipality for a specific purpose and subject to conditions as the Municipality may impose.
- (9) The Municipality will not collect refuse **[that are]** not **contained** in bags or **that has been placed in** damaged receptacles including refuse bags which are torn, and no liability will be **incurred [accepted]** for lost or damaged containers.
- (10) Only animal proof containers may be used by residents in areas which the Municipality has declared as problem animal areas and these containers are at cost obtainable from the Municipality.
- (11) If an owner or occupier of premises in a problem animal area is using a receptacle that does not comply with the requirements of the Municipality, he will be instructed to obtain an animal proof container **either** from the Municipality **or an approved vendor** and, in cases where the Municipality is of the opinion that more than one animal proof container is needed due to the volume of waste, the owner or occupier will be compelled to purchase such **additional container or containers. [from the Municipality.]**
- (12) Nothing that may cause damage to the refuse compactor of the Municipality may be deposited in approved domestic and business waste containers or animal proof containers and where such care is not taken and damage of municipal equipment takes place, the Municipality will hold the owner or occupier liable for the full cost of such damages.

Communal collection

- 14.** (1) The Municipality shall in high density areas where a sustainable, formalised domestic waste collection service **may [can]** be rendered, collect the refuse of individual households on a weekly basis.
- (2) The Municipality shall place appropriate bulk receptacles at central communal collection points determined by the Municipality as suitable for communal collection.
- (3) Communal collection points will be clearly demarcated areas.
- (4) The bulk receptacles will be in accordance with the Municipality's specifications and **their [its]** location will as far as reasonably possible—
 - (a) allow secure and easy access to the community;
 - (b) prevent windblown litter;
 - (c) enable easy access for the Municipality's waste collection vehicles.
- (5) The waste will as far as reasonably possible be collected once per week or within 24 hours of a bulk receptacle being reported full to the Municipality.
- (6) Waste separation at source will be encouraged in respect of communal collection by providing separate bulk receptacles for non-recyclable and recyclable waste at the communal collection points should the Municipality determine it to be viable.

Collection in rural areas

- 15.** (1) Where it is not economically viable for the Municipality to provide bulk waste containers or any other

form of collection of waste in **[its]** rural areas, communities and farmers are encouraged to dispose of waste at designated municipal waste handling or waste disposal facilities.

- (2) Notwithstanding the above, the Municipality will in co-operation with rural communities work to find cost-effective ways to expand waste collection practices to the rural areas.
- (3) The Municipality is in accordance with national legislation not in favour of on-site disposal of waste but may allow on-site waste disposal in rural areas if no other feasible alternatives **can [could]** be made available[; **in which case, the Municipality will supervise or monitor such practices and exercise control over it in so far as it is reasonably possible**].

Recycling

16. (1) Any owner or occupier of a business or residential premises or any other [holders] holder of waste as determined by the Municipality and in areas as determined by the Municipality may be required to—
 - (a) separate their waste in recyclable, e.g. e-waste; plastics, paper and glass and non-recyclable waste in accordance with the directives of the Municipality;
 - (b) use different receptacles for waste so separated as directed and/or provided by the Municipality;
 - (c) place receptacles containing the recyclable waste outside the entrance to the premises before 07:00 on the day of the week specified by the Municipality for waste removal or, if so requested, drop these recyclable waste receptacles off at places as directed by the Municipality; and
 - (d) follow any other reasonable prescribed procedures.
- (2) The Municipality or its service provider may, in areas where such services are necessary and viable, collect recyclable waste from business premises multiple times per week.
- (3) The Municipality **[has] may** provid**[ed]** drop-off centres for recyclables **[in all its administrations]** at places ensuring easy and safe access for the public.

Accumulation of waste

17. (1) The owner or occupier of a business or residential premises must ensure that all domestic or business waste generated on the premises be placed for **scheduled** collection and not be accumulated on-site.
- (2) Where a type or quantity of waste is not collected by the Municipality or regularly removed by an accredited service provider, the owner or occupier of the premises and/or holder of the waste must arrange for the removal, **[transport] transportation** and disposal of the waste at a waste handling or waste disposal facility, as often as may be necessary to prevent undue accumulation and any nuisance or detrimental impact on human health or the environment arising from the waste.
- (3) The Municipality may enter any premises where it suspects waste of any type is accumulated and may instruct the person generating the waste or the owner or the occupier of the premises where it is so accumulated to remove the waste immediately **failing which** [or] the Municipality may proceed to do so at the cost of the owner or occupier of the premises **[where the waste is accumulated]**.

CHAPTER 4

Handling Different Waste Types

Part 1

Garden Waste

Composting

18. The owner or occupier of premises on which garden waste is generated may compost garden waste on the property, provided that such composting does not cause a nuisance nor has a detrimental impact on human and environmental health and adheres to any relevant legal requirements including obtaining any authorisations from a competent authority should such be required.

Removal and disposal of garden waste

19. The owner or occupier of premises on which garden waste is generated must remove and dispose of it within a reasonable time after generation **[of the waste]** at a waste handling and/or waste disposal facility determined by the Municipality.

Part 2

Bulky Waste

Removal and disposal

20. The owner or occupier of premises on which bulky waste is generated **may not place the bulky waste with their other normal waste to be collected by the municipality during the normal collection cycle and** shall ensure that such waste is **either recycled** or removed and disposed of in terms of this By-law within fourteen days after generation thereof at **[a] an authorised** waste handling and/or waste disposal facility **[determined by the Municipality] capable of receiving such bulky waste types.**

Part 3

Building Waste

Plans and inspection

21. (1) An owner or occupier or any person responsible for the submission of building plans for a new building or an alteration to an existing building must include therein the manner in which building waste will be handled.
- (2) An authorised official of the Municipality must inspect and verify that the waste arrangements contemplated in subsection (1) **have been adhered to [were followed]** and all building waste appropriately disposed of as part of the final municipal sign-off of the building activities.

Generation and storage

22. (1) Notwithstanding the waste arrangements contemplated in section 21, the owner or occupier of premises on which building waste is **or has been** generated and/or the person engaged in any activity which causes such waste to be generated, must ensure that—
- (a) all building waste and the containers used for the storage thereof **are** [is] kept on the

- premises on which the building waste is **or has been** generated;
 - (b) the premises on which the building waste is **or has been** generated does not become unsightly or cause a nuisance as a result of **having** accumulated **[building waste]**;
 - (c) any building waste which is blown off the premises, is promptly retrieved.
- (2) Upon written request and subject to conditions as it may determine the Municipality may approve the use of a bulk receptacle placed on a verge for a specified **period** [duration].
 - (3) The Municipality may instruct an owner or occupier of premises on which building waste is generated and/or the person engaged in any activity which causes such waste to be generated to make use of special containers to dispose of it.
 - (4) The owner or occupier of the premises on which building waste is generated must endeavour to separate clean building waste from the **remainder [rest]** of the building waste and also dispose of it separately as contemplated in section 23(2).

Removal and **recycling or disposal**

23. (1) The owner or occupier of premises on which building waste is **or has been** generated and/or the person engaged in any activity which causes such waste to be generated, must ensure that all building waste is **[weekly]** removed **weekly** and **recycled or** disposed of and the premises completely cleared of building waste before final sign-off by the Municipality's building inspector will be done.
- (2) Building waste must **be recycled or where it cannot be recycled** disposed of at **an authorised / approved** waste handling and/or waste disposal facility **[determined by the Municipality]**.
- (3) **The owner will be required to keep records of all waste removed from the site indicating the quantity as well as where and how the waste was disposed of.**

Part 4 Special Industrial, Health Care and Hazardous Waste

Notification and verification

24. (1) Any person that will engage in activities which will **or may** generate special industrial, hazardous or health care waste must, prior to the generation of such waste, notify the Municipality in writing of the expected or known composition **and quantity** of such waste **[and the quantity]** to be generated, how and where it will be stored, how it will be collected and disposed of and the identity of the accredited service provider who will be responsible for its removal, transportation and disposal.
- (2) Any person engaged in waste activities as referred to in subsection (1) which **had been [were]** established and in operation prior to the commencement of this By-law, must notify the Municipality **[as contemplated in subsection (1)] of this fact** within ninety days of the commencement of this By-law.
- (3) If so required by the Municipality, a notification referred to in subsection (1) or (2) must be substantiated by—
 - (a) an assessment and analysis of the waste composition certified by an appropriately qualified industrial chemist;
 - (b) safety data sheets or completed waste manifest document/s; and

- (c) such other records required to verify compliance with applicable legislation, national standards and the latest edition of the relevant SANS Code of Practice.
- (4) The person referred to in subsection (1) or (2) must when changes **[occur and] are effected, but also** annually before or on the 30th of June submit to the Municipality a written report containing the information stipulated in subsection (1), if so required by the Municipality, the substantiating documents referred to in subsection (3) and any other information which the Municipality may reasonably require.
- (5) An authorised official may enter premises at any reasonable time to ascertain whether waste referred to in subsection (1) is **or has been** generated or stored on such premises and may take samples and test any waste found on such premises to ascertain its composition.
- (6) Sampling as contemplated in subsection (5) will **[be, as] if** reasonably possible be [,] done in the presence of the owner, occupier or person apparently in control of the premises and waste samples will be taken in duplicate in order to provide the owner, occupier or person apparently in control with a set of waste samples identical to that of the Municipality which he/she **may [could also]** test at own cost provided that the same tests be done as the Municipality; **that** it be done at the nearest laboratory accredited by the South African National Accreditation System (SANAS) and the samples be delivered to this laboratory by the Municipality.

Storage

- 25. (1) Special industrial, health care and hazardous waste generated on premises must be stored **thereon in specially approved container/s until collected from the premises and must be stored in a manner which does not create** [creating] a nuisance, **[or] causes [causing]** harm to human health or **[polluting] pollutes** the environment and **is** in accordance with applicable legislation, national standards and the latest edition of the relevant SANS Code of Practice.
- (2) If the waste referred to in subsection (1) is not stored as stipulated, the Municipality may require a full record of the waste content, date of **containerisation [containment]** and quantity and if such a record is not available the Municipality may instruct the person generating the waste or the owner or the occupier of the premises where it is stored to remove the waste immediately **[or] failing which** the Municipality may proceed to do so at the cost of the owner or occupier of the premises where the waste is stored.

Collection and disposal

- 26. (1) Only an accredited service provider may collect special industrial, health care and hazardous waste from premises where **[it is]** stored and transport it to and dispose of it at a waste disposal facility **[designated by the Municipality] licenced** to receive such waste **and deal with appropriately.**
- (2) An accredited service provider must collect, transport and dispose of the waste referred to in subsection (1) in accordance with its accreditation terms and conditions and in compliance with applicable legislation, national standards and the latest edition of the relevant SANS Code of Practice.

Part 5
Industrial Waste and Special Waste

Storage

27. (1) The owner or occupier of premises on which industrial waste or special waste is generated must ensure that until such time as the waste is collected by an accredited service provider from the premises on which it was generated—
- (a) the waste is stored in accordance with applicable legislation, national standards and the latest edition of the relevant SANS Code of Practice in approved containers which are not kept in a public place; and
 - (b) no nuisance, health risk or environmental damage is caused by the waste in the course of generation or storage.

Collection and disposal

28. (1) Only an accredited service provider may collect industrial or special waste from premises where it is stored and transport and dispose of it at a waste disposal facility **licenced [designated by the Municipality]** to receive **and dispose of** such waste.
- (2) An accredited service provider must collect, transport and dispose of the waste referred to in subsection (1) in accordance with its accreditation terms and conditions and subject to the requirements of any applicable legislation, national standards and the latest edition of the relevant SANS Code of Practice.
- (3) **[The Municipality may determine specific times for acceptance of special waste at the site referred to in subsection (1).]**

Part 6
Tyres, Disused Vehicles or Machinery and Scrap Metal

Storage and disposal

29. (1) No owner or occupier of premises with an operational area in excess of the statutory determined limit may temporary accumulate, store or stockpile waste tyres, disused, scrapped, dismantled or recovered vehicles or machinery or scrap metal unless the waste management activity is managed in accordance with national standards or licensed in terms of national legislation, whichever is applicable.
- (2) Waste tyres, disused, scrapped or dismantled vehicles or machinery and scrap metal **[are not] shall not be** accepted at any of the Municipality's own waste handling or waste disposal facilities. Any person having to dispose of any of these materials must dispose thereof at a waste disposal facility as directed by the Municipality and in terms of conditions determined for such waste disposal facility.
- (3) The Municipality may enter the premises of any person involved in the storage or stockpiling of waste tyres, disused vehicles or machinery or scrap metal and request proof of any plans including its integrated waste management plan, licenses or other applicable documents to verify compliance with applicable legislation.

Part 7
Recyclable Waste

Storage, collection and disposal

30. (1) No owner or occupier of premises or any other person may **[temporary] temporarily** accumulate, sort, store or stockpile recyclable waste on any premises within the municipal area unless acting in accordance with subsection (2).
- (2) An owner or occupier of premises or any other person must prior to commencing an activity involving the re-use, reclamation or recycling of waste, comply with national and provincial legislation and standards and the latest edition of the relevant SANS Code of Practice for such activity and provide the Municipality with a copy of his integrated waste management plan and such other information as the Municipality may require.
- (3) Only an accredited service provider may collect recyclable waste from premises where it is generated and/or separated from other waste and transport and dispose of it at a waste handling facility or a waste disposal facility **[designated by the Municipality] authorised** to receive such waste.

Part 8

Agricultural and Farm Waste

Disposal

31. (1) An owner or occupier of farm land may subject to subsections (2) and (3) use on-site disposal of waste but, **[as also indicated]** in **accordance with** section 41, the burning of waste is strictly prohibited.
- (2) An owner or occupier of farm land may not dispose any quantity of hazardous waste, which may be present in agricultural waste, to the land unless in possession of the applicable waste management license in terms of national legislation, and if applicable, provincial legislation.
- (3) An owner or occupier of farm land may dispose of general waste, which may include agricultural and farm waste, to the land provided this is done in accordance with applicable legislation, national standards and the latest edition of the relevant SANS Code of Practice and, if the quantity of waste requires it, authorisation thereof by a valid waste management license.
- (4) An authorised official of the Municipality may request an owner or occupier of farm land [who] **whom** he suspects is disposing hazardous waste and/or general waste exceeding the quantity allowed for disposal to provide proof of the licences referred to in subsections (2) and/or (3) and, irrespective of the composition and/or quantity of the waste disposed of to land by the owner or occupier, the Municipality may request the owner or occupier to submit an integrated waste management plan to the Municipality within a time frame determined by the Municipality.
- (5) An owner or occupier of farm land may dispose of domestic waste excluding hazardous and health care waste at waste handling or waste disposal facilities as directed by the Municipality.

CHAPTER 5

Transportation and Disposal

Part 1

Transportation of Waste

Safe transportation

32. (1) A transporter of waste must ensure that—
- (a) vehicles used for the conveyance of waste upon a public road are of adequate size and construction for the type of waste being transported; and
 - (b) he/she maintains the vehicles used for the conveyance of waste in a clean, sanitary and roadworthy condition at all times.
 - (c) **any receptacle used for conveyance is maintained in a clean and sanitary condition at all times.**
 - (d) **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.**

No wastage or spillage

33. (1) A person transporting waste through the municipal area must ensure that—
- (a) loose waste on an open vehicle is covered with a tarpaulin or suitable net; and
 - (b) no waste become detached, **[leak] leaks** or **[fall] falls** from the vehicle transporting it.
 - (c) **The municipality may recover costs from the transporter for reasonable remedial measures undertaken by the municipality.**

Legal compliance

34. A transporter of waste, specifically hazardous waste, must ensure he or she operates in compliance with all relevant national and provincial legislation, national standards and the latest edition of the relevant SANS Code of Practice.

Part 2

Waste Disposal

Permitted use

35. (1) The Municipality may prescribe which types of waste may be disposed of at a particular **Municipal** waste handling or waste disposal facility as permitted in terms of the license stipulations of each facility and further in compliance with national legislation and standards.
- (2) Different tariffs for the disposal of different waste types and volumes are applicable, but residents are allowed disposal of general waste at the **Municipal** waste handling and waste disposal facilities **as** determined by the Municipality.
- (3) **An authorised municipal official, waste disposal facility operator or service provider may inspect all waste loads entering the waste transfer facility, general waste storage facility, recycling facility or waste disposal facility**
- (4)
- a. **The inspection may include-**
 - i. **visual and physical inspection of the waste, including the use of hand held equipment;**
and

- ii. a laboratory analysis of the waste
- b. An authorised municipal official may issue an instruction to the holder of waste that is potentially detrimental to the environment to-
 - i. have independent laboratory tests conducted before the waste is disposed of to assess whether the waste is suitable for the a waste disposal facility; or
 - ii. dispose of the waste at a specified waste disposal facility and provide proof of such disposal.
- c. If an authorised municipal official has concerns about the potential detrimental impact of any waste if not disposed of correctly, the authorised municipal official may dispose of the waste at an appropriate waste disposal facility.
- d. In the circumstances contemplated in subsections 3(a)(i) , 3(b) and 3(c) or where waste is removed by the Municipality, the Municipality may recover any costs incurred from every responsible person, jointly and severally, including the costs associated with-
 - i. The use of specialised equipment during the laboratory tests;
 - ii. Laboratory analysis fees;
 - iii. Administrative fees;
 - iv. Transportation and disposal costs; and
 - v. Clean-up costs, where applicable.

Liabilities

36. (1) No person may dispose of waste at a waste disposal facility which is not licensed for such use. Any person who acts in contravention of any **prescripts [prescriptions]** of the Municipality as contemplated in section 35(1) will be liable for all reasonable costs incurred by the Municipality in removing or otherwise dealing with the waste improperly disposed **of**.
- (2) The Municipality shall not **incur any liability [be liable for any claim]** resulting from access to any waste handling or waste disposal facility and any person who enters any of the sites of these facilities does so at own risk.

Conduct at facilities

37. (1) No person may enter a waste handling or a waste disposal facility for any purpose other than the disposal of waste in terms of this By-law and only **on dates and times [at such times and between such hours]** as the Municipality may determine and display on a clearly visible notice board at the entrance of the waste handling or waste disposal facility.
- (2) Every person who, for the purpose of disposing waste enters a waste handling or a waste disposal facility must—
- (a) enter and leave the facility at the designated entrance and exit points;
 - (b) supply all the particulars required regarding the source and composition of the waste, which waste may be inspected by the Municipality;
 - (c) follow all instructions with regard to access to the actual disposal, transfer or recycling point and the place where and the manner in which the waste should be deposited.
- (3) No person may bring any intoxicating liquor or narcotic substances into any waste handling or waste disposal facility.
- (4) The Municipality may prescribe the maximum size of a vehicle allowed to enter a waste handling or waste disposal facility.

Accepting waste from others

38. (1) The Municipality may consider an application from another municipality to dispose waste at a designated waste disposal facility provided that the acceptance of waste from another municipality will not impact on the Municipality's authority and ownership of the said waste disposal facility.
- (2) The Municipality may allow a person to dispose waste generated outside of the Municipality's municipal area at a designated waste disposal facility of the Municipality provided such person first becomes an accredited service provider as provided for in this By-law.
- (3) The tariffs applicable to accredited service providers referred to in subsection (2) may differ from the waste disposal tariffs stipulated in the Municipality's Tariff By-laws, as annually determined during the approval of the budget.

Prohibition of unauthorised disposal of waste

- 38.A 1) No person may-**
- a) Dispose of waste in or on any land or water body or at any facility unless the disposal of that waste is authorised by law; or**
 - b) Knowingly or negligently cause or permit waste to be disposed of in a manner that is likely to cause harm to human health or damage to the environment.**
- 2) If waste has been disposed of in contravention of this By-law, the municipal manager may issue a directive to the responsible person to remove the waste to an authorised waste disposal facility within a specified period.**
- 3) If waste had been disposed of in contravention of this By-law and-**
- a) The responsible person fails to comply, or inadequately complies, with a directive contemplated in subsection (2) ;**
 - b) There is uncertainty regarding the identity or whereabouts of the responsible 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 contain and minimise the effects of the disposal of the waste.**
- 4) The municipality may recover any costs incurred in terms of subsection (3) from every responsible person, jointly and severally**

CHAPTER 6

Littering and Dumping

Provision of facilities for litter

39. (1) The Municipality must take reasonable steps to ensure that a sufficient number of receptacles are provided for the discarding of litter by the public on any premises to which the public has access.
- (2) The owner or occupier of private land to which the public has access must ensure that sufficient containers are provided to contain litter which is discarded by the public.

Littering and dumping

40. (1) No person may -
- (a) drop, throw, deposit, spill, dump or in any other way discard, any litter or waste into or onto any public place, public road, private road, municipal or private drain, any land, vacant erf, stream or

any other places not **made provision [allowed]** for in this By-law

(b) **disturb anything in, or remove anything from, any receptacle which has been placed for the purpose of collecting waste in such a manner as to cause the contents of the receptacle to spill or fall onto the ground;**

(c) or allow any person under **his/her [their]** control to do **[so] any of the acts contemplated in paragraph (a) or (b).**

- (2) An authorised official may act against any of the contraventions listed in subsection (1) through a written notice directing such person to—
- (a) cease the contravention within a specified time;
 - (b) prevent a repeat of the contravention or a further contravention;
 - (c) take whatever measures that the Municipality considers necessary to clean up or remove the waste and rehabilitate the affected environment within a specified time; or
- institute criminal **proceedings [action]** in terms of the Criminal Procedure Act, **[1977 (] Act 51 of 1977 [)]** in case of non-compliance with paragraphs (a) to (c) above.
- (3) An owner or occupier of land or premises or any other person in control of land or premises, may not use or permit the land or premises to be used for unlawful dumping of waste and must take reasonable steps to prevent the use of the land or premises for that purpose.
- (4) Should the Municipality regard it necessary to remove waste or litter from land or premises, the owner, occupier or person having control over the land or premises will be held liable for the costs incurred by the Municipality for the removal operation.
- (5) In the case of hazardous waste, the Municipality will immediately remove such waste and thereafter issue notices to the person liable for the cost of removal and rehabilitation of the environment.

Burning of waste

41. [Burning of waste is strictly prohibited.] 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.

Abandoned objects

42. (1) The Municipality may remove and dispose of any article which it reasonably regards as having been abandoned, taking into account the following factors:
- (a) the location where the article was found;
 - (b) the length of time that the article has been at the location; and
 - (c) the nature and condition of the article.
- (2) A person who abandons any article is liable for any damage which that article has caused or may cause as well as for the cost of removing that article notwithstanding the fact that such person may no longer be the owner thereof.

CHAPTER 7

External Service Providers

Part 1

Accredited Service Providers for Commercial Services

Accreditation applications

43. (1) No person may provide commercial services for the collection and **[transport] transportation** of waste in the municipal area unless such person has registered with the Municipality and obtained an accreditation authorising **such [these]** waste management activities within the municipal area.
- (2) An application for accreditation must be submitted in writing in a format or on a form prescribed by the Municipality including such information as the Municipality requires and the prescribed fee and, unless subsection (3) applies, the Municipality's approval for the collection and transportation of waste must first be obtained before such waste services may commence.
- (3) Any person already providing **such [these]** commercial services at the commencement of this By-law, must within **[ninety] 90 (ninety)** days of such commencement date submit an application for accreditation in terms of subsection (1), failing which the person will as from the date that the said ninety days' period expired no longer be able to render such services in the municipal area.
- (4) The Municipality will consider and grant or reject the application submitted in terms of subsection (3) within **[thirty] 30 (thirty)** days of **[its]** receipt having regard to the health, safety and environmental record of the applicant and the nature of the commercial service to be provided and will furnish in writing specific and substantive reasons if such application is rejected.

Terms and conditions of accreditation

44. (1) An accreditation must-
- (a) clearly identify the accredited person or entity;
 - (b) specify the accreditation period;

- (c) specify the categories of waste which the accredited service provider may collect, transport and dispose;
 - (d) outline the information recording and submission requirements of the Municipality for its own integrated waste management plan and IPWIS; and
 - (e) deal with other procedural matters.
- (2) An accreditation for the collection and **[transport] transportation** of waste—
 - (a) may not be ceded or assigned without the prior written consent of the Municipality;
 - (b) **[is] will be** valid for one year from the date of issue; and
 - (c) is valid only for the categories of waste specified therein.
 - (3) An accreditation authorisation will include a display sticker for each of the vehicles identified in the accreditation application indicating the validity period and the category of waste for which it is granted, which sticker must be clearly displayed on the **left bottom corner of the** front window of the identified vehicles.
 - (4) The Municipality will not receive waste at its waste handling facilities or waste disposal facilities from service providers or contractors who are not able to provide proof of accreditation by the Municipality should it be requested and without an accreditation sticker on the vehicle.
 - (5) An accredited service provider may not fail or refuse to provide the Municipality with any information reasonably requested with regards to the terms and conditions of the accreditation or give false or misleading information.
 - (6) An accredited service provider **[is] shall be** fully liable for any act or omission by any of his or her employees that could be seen as a transgression of the accreditation conditions and/or have a detrimental impact on human health or the environment.

Renewal of accreditation

- 45. (1) An accreditation renewal application must be submitted at least **[sixty] 60 (sixty)** days prior to the expiry date of a current accreditation and will be considered and either granted or rejected by the Municipality within **[thirty] 30 (thirty)** days of receipt of the renewal application. The Municipality must provide substantive reasons for the rejection of an accreditation renewal.
- (2) Notwithstanding anything to the contrary in this By-law, the Municipality must **[temporary] temporarily** extend an accreditation for a **[specific duration] period** not exceeding **[thirty] 30 (thirty)** days if an accredited service provider followed the correct procedure as contemplated in subsection (1) and due to the Municipality's processes, the renewal application has not been considered and a new accreditation granted or rejected.

Suspension and revocation of accreditation

- 46. (1) The Municipality may suspend or revoke an accreditation if an accredited service provider **fails [failed]** to comply with any of the terms and conditions of the accreditation or any other provision of this By-law, or any national or provincial legislation regulating the collection, transportation or disposal of waste or any other grounds considered by the Municipality as substantive reason to revoke or suspend an accreditation.
- (2) The Municipality must give an accredited service provider written notice of the intended suspension or revocation of his or her accreditation and **[thirty] 30 (thirty)** days from the date of issuing the

notification to submit reasons as to why **[for]** such action should not to be taken by the Municipality.

- (3) The Municipality must make a final decision within **[fourteen] 14 (fourteen)** days of the expiry of the period stated in subsection (2) irrespective **of whether** **[if]** a representation was received from the service provider and must notify the service provider in writing within **[seven] 7 (seven)** days of taking a final decision.

Accreditation exemptions

47. The Municipality may exempt an external service provider or a type of commercial service from any or all of the accreditation provisions in Part 1 of Chapter 7 and such other sections as may be deemed necessary by the Municipality.

Consumer responsibilities

48. (1) The owner or occupier of premises or the holder of waste that contracts with an accredited service provider must ensure that—
- (a) the service provider is accredited to collect and transport the categories of waste for which he or she is contracted;
 - (b) until such time as the accredited service provider collects such waste from the premises on which it was generated, the waste is stored in an approved container and no nuisance, including but not limited to dust and smells, is caused by the handling of the waste in the course of its generation, storage or collection; and
 - (c) the service rendered is only in respect of the categories of waste authorised in the accreditation.

Part 2 Municipal Service Providers

Outsourcing of services

49. (1) The Municipality may enter into agreements with external service providers, whether public or private, for the rendering of municipal waste services and activities and must do so in accordance with municipal, provincial and national legislation.
- (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 frequencies;**
 - (c) provide for the circumstances in which services rendered by the service provider may be limited; and**
 - (d) require the service provider to be registered on IPWS, the provincial integrated pollutant and waste information system.**

Consumer charter

50. If a service provider as contemplated in section 49 is appointed by the Municipality [L] to render a service to a large geographical area or part of its population, the municipal service provider will be required to compile and adopt a consumer charter in consultation with the community.

CHAPTER 8

General

Ownership

51. (1) **[The person holding the licence to operate a waste handling or a waste disposal facility becomes the owner of all waste upon disposal thereof at that facility.]**

- (2) [A person who generates domestic or business waste is the owner thereof until it is collected by the Municipality who then becomes the owner thereof.]
- (1) A person who generates waste is the owner of that waste until it is collected by the Municipality or a service provider in accordance with this by-law.
- (2) sub-section (1) do not apply to waste streams determined in terms of section 10(8)
- (3) A person who generates waste contemplated in sub section (2) remains the owner of the waste until the waste is disposed of lawfully.
- (4) Waste on the following premises controlled by the Municipality:
 - (a) waste disposal facilities;
 - (b) waste transfer facilities and drop-offs
 - (c) facilities where waste is received, stored, recovered or treated.is the property of the Municipality.
- (5) No person may remove from or interfere with waste on premises contemplated in subsection (4) unless authorised by the Municipality

Access to premises

52. Should the Municipality be impeded from collecting or handling refuse due to the layout of the premises and/or such layout is likely to result in damage to private property or municipal property or injury to the Municipality's employees, the Municipality may require the owner or occupier to **effect** [do] such alterations as necessary at own cost **in order** to remove any impediments, failing or refusing which, the Municipality must suspend the service and require the owner or occupier to indemnify the Municipality in writing in respect of such damage or injury or any claims arising of either before resuming the service.

Prohibition of nuisance

- 52.A 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 of the environment;
 - and
 - b) take measures at his or her own cost to remedy any nuisance caused.
- 2) The municipal manager may issue a directive to a responsible person to take measures to ensure compliance with subsection (1).
- 3) If a directive is issued as contemplated in subsection (2) and-
- a) The responsible person fails to comply, or adequately complies, with the directive;
 - b) There is uncertainty regarding the identity or whereabouts of the responsible person; or
 - c) There is an immediate risk to the detriment to the environment,
- The municipality may take any measures it considers necessary to prevent the nuisance, contain and minimise the effects of the nuisance and remedy the effects of the nuisance.
- 4) The Municipality may recover any costs incurred in terms of subsection (3) from every responsible person, jointly and severally.

CHAPTER 9

Enforcement and Legal Services

Compliance with this By-law and other laws

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

Exemptions

- 53.A** **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 form determined by the Municipality and must be accompanied by a motivation for the exemption.**
- 3) The Municipality may-**
- a) grant an exemption in writing, with without conditions subject to which the exemption is granted;**
 - b) amend or cancel an exemption or a condition in an exemption; or**
 - c) 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 granting 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 conditions.**
- 6) If the applicant fails to comply with a condition of the exemption, the exemption is suspended with immediate effect.**

Authorisation of an official

54. (1) The Municipality or a municipal service provider as contemplated in section 49 of this By-law, may authorise any person in its employ to become an authorised official.
- (2) The waste management officer of the Municipality is an authorised official.

Functions and powers of an authorised official and waste disposal facility operator

55. (1) An authorised official may execute work, conduct an inspection and monitor and enforce compliance with this By-law and, as applicable, national and provincial legislation relating to waste management.
- (2) Subject to the provision of any other applicable law, an authorised official must carry out the functions contemplated in this section and the powers set out herein.
- (3) **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.**

Service of notices and documents

56. (1) A notice or document issued by the Municipality in terms of this By-law **shall [must]** be deemed to be

duly authorised if an authorised official signed it.

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

Directives

- 56A** (1) The municipal manager may issue a directive to any person as 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, 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 specific time frame thereafter.

Compliance notices

- 57.2** (1) An authorised official may issue a written **compliance** notice to any person **if there are reasonable grounds for believing that that person has not complied with-**
- (a) [contravening the provisions] a provision** of this By-law.
 - (b) a term or condition of any permit, authorisation, exemption or other document issued in terms of this By-law.**
- (2) A **compliance** notice in terms of subsection (1) must
- (a) provide details of the provision of the By-law that has not been complied with;
 - (b) provide the owner, occupier, or other party a reasonable opportunity to make representations and state his or her case in writing to the Municipality within a specified period, unless the owner, occupier or other person was given such an opportunity before the notice was served;
 - (c) specify the steps that the owner, occupier or other person must take to rectify or remedy the failure;
 - (d) specify the period within which the owner, occupier or other person must take these steps to

- rectify the failure; and
 - (e) indicate that the Municipality may-
 - (i) if the notice is not complied with, undertake or allow the work that is necessary to rectify the failure to be undertaken and recover from the owner, occupier or other person the actual **[cost] costs** of such work; and
 - (ii) take any other action it deems necessary to ensure compliance.
 - (f) **the procedure to be followed in lodging an appeal against the compliance notice.**
- (3) If an owner or occupier or any other person fails to comply with a written notice served on him or her by the Municipality in terms of this By-law, the Municipality may take such action as in its opinion is necessary to ensure compliance, including-
- (a) Undertaking the actions and/or work necessary and recovering the **[cost] costs** of such actions and/or work from the owner, occupier or other person, as the case may be; or
 - (b) Instituting legal proceedings against the owner, occupier, or other person, as the case may be in terms of the Criminal Procedure Act, **[1977 (] Act 51 of 1977 [)]**.
- (4) In the event of an emergency, notwithstanding any other provisions of this By-law, the Municipality may without prior notice undertake the work contemplated in subsection (3) and recover such costs from the owner, occupier or other person, as the case may be.
- (5) The actual costs recoverable by the Municipality in terms of subsections (3) and (4) shall be the full costs associated with such work.
- (6) In the case where compliance with a notice is required within a specified number of working days, such period shall be deemed to commence on the date of issue of such notice.
- (7) A notice or document issued in terms of subsection (2) is valid until one of the following events occurs:
- (a) **its requirements have been carried out to the full; [is carried out;]**
 - (b) it is cancelled by the authorised official who issued it or, in that person's absence, by a person with similar authority;
 - (c) the purpose for which it was issued, has lapsed **or has become unnecessary.**
- (8) **An authorised municipal official may, on good cause shown, vary a compliance notice and extend the period within which it has to be complied with.**
- (9) An authorised official who is satisfied that the owner or occupier or person apparently in control of any premises has satisfied the terms of a compliance notice may issue a *compliance certificate* to that effect.

Power of entry and inspection

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

Using force to enter

59. (1) Force may not be used to affect entry **to any premises** to execute work or conduct an inspection on

any **premises** in terms of [**premises**] section 58 unless in a case of emergency [an emergency arises].

- (2) An authorised official carrying out a written authorisation in terms of section 58 which is regarded as an emergency situation, may overcome any resistance to entry, execution of work or inspection by using as much force as is reasonably required, including breaking a lock, door or window of the premises to be entered.
- (3) Before resorting to force to gain entrance to the premises, the authorised official carrying out the written authorisation must audibly demand admission and must announce his or her purpose, unless he or she reasonably believes that doing so may induce a person to destroy, dispose of, or tamper with, the article or document or object that is the focus of the inspection.

Limitation of Liabilities [and compensation]

60. **Neither the [The] Municipality nor any other person will incur liability** [will not be liable] for **any** damages or **loss caused by** [compensation arising from anything done by it in terms of this By-law].
- (a) **the exercise of any power or 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, the power or duty is unlawful**

False statement or information

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

Appeals

62. (1) An appeal to a decision of the Municipality taken in terms delegated powers must be made in terms of section 62 of the Systems Act by giving written notice of the appeal and the reasons therefor within twenty one days of the date of notification of the decision to the municipal manager.
- (2) **An appeal under this section suspends the operation of the decision concerned pending the finalisation of the appeal, subject to subsections (3) and (4)**
- (3) **A person who receives a directive or compliance notice issued in terms of this By-law must comply with that directive or notice within the time period stated in the directive or notice, unless the appeal authority has agreed to suspend the operation of the directive or compliance notice as contemplated in sub section (4)(b)**
- (4) **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 (3), or any part of that directive or notice, is suspended.**

Offences

63. (1) It is an offence for any person to -
- (a) refuse to grant an authorised official access to premises to which that authorised official is duly authorised to have access;
 - (b) obstruct, interfere or hinder an authorised official who is exercising a power or carrying out a duty under this By-law;

- (c) fail or refuse to provide an authorised official with a document or information that the person is required to provide under this By-law;
 - (d) give false or misleading information to an authorised official;
 - (e) unlawfully prevent the owner of any premises, or a person working for that owner, from entering the premises in order to comply with a requirement of this By-law;
 - (f) pretend to be an authorised official;
 - (g) falsely alter an authorisation to an authorised official or written authorisation, compliance notice or compliance certificate issued in terms of this Chapter;
 - (h) enter any premises without a written notification in circumstances requiring such notification;
 - (i) act contrary to a written notice or document issued in terms of this Chapter;
 - (j) disclose any information relating to the financial or business affairs of any person which was acquired in the performance of any function or exercise of any power in terms of this By-law, except –
 - (i) to a person who requires that information in order to perform a function or exercise a power in terms of this By-law;
 - (ii) if the disclosure is ordered by a court of law; or
 - (iii) if the disclosure is in compliance of the provisions of any law.
 - (k) contravene or fail to comply with any of the provisions of this By-law;
 - (l) fail to comply with any notice issued in terms of this By-law;
 - (m) fail to comply with any lawful instruction given in terms of this By-law;
 - (n) Contravene or fail to comply with any conditions imposed upon the granting of any licence, consent approval, concession, exemption or authority in terms of this By-law.
- (2) A person who causes or incites another person to commit an offence referred to in subsection (1), or who, being in a position of authority over another person, permits or allows him or her to commit an offence, will be guilty of that offence.

Penalties

64. (1) Any person who contravenes any of the provisions of section 63 shall be guilty of an offence and liable on conviction to-
- (a) a fine or imprisonment or to such imprisonment without the option of a fine or to both such fine and such imprisonment and,
 - (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
 - (c) a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as a result of such contravention or failure.
- (2) In addition to any penalty imposed in terms of subsection (1) the Municipality may terminate the rendering of waste services to such a person.
- (3) **[The Municipality may without compensation, confiscate the property or other equipment or instruments through which unauthorised services were obtained.]**

Application of this By-Law

65. (1) **This By-law must be read with the applicable provisions of the Waste Act**
- (2) **This By-law [by-law]** applies to all persons or bodies, including organs of State, situated within the area of jurisdiction of the Overstrand Local Municipality.

(3) In the event of any inconsistency between a provision of this By-law and any other By-law which regulates waste management, the provision of this By-law prevails.

Repeal of By-laws

66. The [by-law] By-law listed in Schedule "A" is hereby repealed.

Short title and commencement

67. This By-law is called the Overstrand Municipality Integrated Waste Management By-law, [2013] 2021 and commences on the date of publication in the Provincial Gazette.

SCHEDULE A

BY-LAWS REPEALED

The following By-law is hereby repealed in terms of section 66 of this By-law:

NUMBER AND YEAR OF NOTICE	TITLE OR SUBJECT	EXTENT OF REPEAL
P.N. / 2007 2013	Overstrand Municipality: Solid Integrated Waste Management By-law	In full