
MUNICIPAL NOTICES • MUNISIPALE KENNISGEWINGS

MUNICIPAL NOTICE 117 OF 2016

ETHEKWINI MUNICIPALITY: WASTE REMOVAL BY-LAW, 2016

NOTICE IS HEREBY GIVEN that the eThekweni Municipal Council has enacted, by way of resolution in terms of section 12 of the Local Government: Municipal Systems Act, 32 of 2000, the Waste Removal By-law, 2016 contained hereunder.

Sibusiso Sithole

City Manager

City Hall
Dr Pixley Ka-Isaka Seme Street
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eTHEKWINI MUNICIPALITY: WASTE REMOVAL BY-LAW, 2016



Adopted by Council on the:

WASTE REMOVAL BY-LAW, 2016

To make provision for the collection and removal of domestic waste and business waste; to require waste generators to collect and remove bulky waste, building waste, garden refuse, hazardous waste, industrial waste, health care waste, special domestic waste and special industrial waste; to provide for the temporary storage of waste pending collection; to provide for the operation of garden refuse sites; to impose obligations regarding special industrial waste, hazardous waste and health care waste; to provide for proof of disposal of building waste; to impose obligations regarding event waste; to provide for waste management plans; to encourage the recycling of waste; to provide for the conduct at municipal waste disposal sites; to regulate private waste removal contractors; to impose penalties for dumping and other offences and to provide for matters incidental thereto.

PREAMBLE

WHEREAS everyone has the right to an environment that is not harmful to their health or well-being in terms of section 24(a) of the Constitution;

WHEREAS one of the objects of the eThekweni municipal council is, in terms of section 152(d) of the Constitution, the promotion of a safe and healthy environment;

WHEREAS there is a need to regulate waste removal within the area of jurisdiction of the eThekweni Municipality in order to ensure a safe and healthy environment;

WHEREAS the Municipality has the competence in terms of Part B of Schedule 5 of the Constitution to control refuse removal, refuse dumps and solid waste disposal;

AND WHEREAS the eThekweni municipal council has competence, in terms of section 156 (2) of the Constitution of the Republic of South Africa, to make and administer by-laws for the effective administration of the matters which it has the right to administer;

NOW THEREFORE the eThekweni municipal council, acting in terms of section 156 read with Part B of Schedule 5 of the Constitution of the Republic of South Africa, and read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), hereby makes the following By-law:

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CHAPTER 1 INTERPRETATION

Definitions

1. In this By-law, unless the context indicates otherwise—

“accommodation establishment” means an accommodation establishment as defined in the Municipality's Accommodation Establishment By-law;

“authorised official” means a person authorised to implement the provisions of this By-law, including but not limited to—

- (a) peace officers as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (b) municipal or metropolitan police officers as contemplated in the South African Police Service Act, 1995 (Act No. 68 of 1995); and
- (c) such employees, agents, delegated nominees, representatives and contractors of the Municipality as are specifically authorised by the Municipality in this regard: Provided that for the purposes of search and seizure, where such person is not a peace officer, such person must be accompanied by a peace officer;

“authorised waste removal contractor” means—

- (a) a private waste removal contractor who has been contracted by the Municipality to provide waste removal services on behalf of the Municipality; or
- (b) a private waste removal contractor who holds a permit from the Municipality authorising it to contract directly with waste generators to provide waste removal services for its own account;

“beach” means the portion of land above and contiguous to the seashore and includes any grass verge (where such verge exists);

“bed and breakfast” means an accommodation establishment, as defined in the Municipality's Accommodation Establishment By-law;

“building waste” means any waste produced during—

(a) excavation; or

(b) the construction, alteration, repair or demolition of any structure,

including building rubble, earth, vegetation and rock displaced during these activities;

“bulk waste container” means a container designed for the temporary storage of waste, with a capacity of more than 2m³ and less than 6m³, whether supplied with wheels or not, and which complies with—

(a) South African Bureau of Standards specification 493-1973: Steel waste bins; or

(b) South African Bureau of Standards specification 1310-1980: Waste bins of polymeric materials

“bulky waste” means domestic waste or business waste which, by virtue of its mass, shape, size or quantity, cannot be conveniently—

(a) stored in a waste container; or

(b) removed as part of the Municipality's normal domestic or business waste removal service;

“business waste” means waste generated on premises used for non-residential purposes and includes waste generated by informal traders and waste generated on residential premises from which business activities are undertaken, regardless of whether or not these activities are lawful, but excludes:

(a) bulky waste;

(b) building waste;

(c) garden refuse;

(d) hazardous waste;

(e) industrial waste;

(f) health care waste;

(g) recyclable waste; and

(h) special industrial waste;

“domestic waste” means waste typically generated on residential premises, including the manure or dung of any animal or bird kept as a domestic pet, but excluding–

- (a) sand;
- (b) earth;
- (c) liquid matter;
- (d) garden refuse;
- (e) the carcass of any animal; and
- (f) special domestic waste;

“dump” means to dispose of waste in a manner which is not permitted by this By-law and includes the depositing, discharging, dropping, spilling, releasing or storing of waste in or at any place, whether publicly or privately owned, including but not limited to–

- (a) a public place;
- (b) a public road;
- (c) a sewage or storm water system;
- (d) a vacant erf;
- (e) the beach or the seashore; and
- (f) a water resource;

“event” means any sporting, entertainment, cultural, religious or other event that is held within the Municipality;

“event organiser” means any person who plans, is in charge of, manages, supervises or holds an event or sponsorship rights to an event or in any manner controls or has a material interest in the hosting of an event, as defined in the Safety at Sports and Recreational Events Act, 2010 (Act No. 2 of 2010);

“event waste” means waste generated by or at an event, or from activities related to an event, regardless of whether or not the event takes place on private or public property;

“garden refuse” means waste of an organic origin which is generated as a result of normal gardening activities on any premises, such as–

- (a) grass cuttings;
- (b) leaves;

- (c) plants;
- (d) flowers;
- (e) weeds; and
- (f) the clippings of trees, hedges or fences: Provided that this excludes branches with a diameter exceeding 40 mm;

“garden refuse site” means a site provided by the Municipality for the disposal and temporary storage of garden refuse at the discretion of the Municipality;

“guest house” means an accommodation establishment, as defined in the Municipality's Accommodation Establishment By-law;

“hazardous waste” means any waste that contains organic or inorganic elements or compounds that may, owing to the inherent physical, chemical or toxicological characteristics of that waste, have a detrimental impact on health and the environment, as defined in the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008);

“Head of Department” means the person appointed as head of the municipal department responsible for cleansing and solid waste matters;

“health care waste” means waste generated by a hospital, clinic, nursing home, doctor's rooms, medical laboratory, research facility, dental practitioner, medical practitioner, traditional healer, traditional surgeon, veterinarian or any other place where health care waste which is infectious or potentially infectious is generated, and includes but is not limited to—

- (a) microbial waste which can cause disease in humans, including but not limited to cultures, stocks and associated biologicals;
- (b) human blood and blood products, including but not limited to serum, plasma and other blood components;
- (c) pathological waste of human origin, including but not limited to tissues, organs and body parts removed during surgery or autopsy;
- (d) contaminated animal waste including but not limited to animal carcasses, body parts and bedding which has been exposed to infectious agents;
- (e) isolation waste associated with human beings or animals known to be infected with highly communicable diseases;

- (f) contaminated and uncontaminated sharps, including but not limited to clinical items which can cause a cut, puncture or injection, such as needles, syringes, blades and microscope slides;
- (g) used medical equipment and other medical material which is capable of or is reasonably likely to be capable of causing or spreading disease or causing or spreading infection, including but not limited to used surgical dressings, swabs, blood bags, laboratory waste, blood collection tubes, colostomy and other catheter bags, gloves, drip bags, administration dines and tongue depressors;
- (h) pharmaceutical products, including but not limited to human and animal vaccines, medicine and drugs; and
- (i) genotoxic chemical waste and radio isotopes from experimental or diagnostic work or any other source;

“industrial waste” means waste in solid form generated as a result of manufacturing, maintenance, fabricating or dismantling activities, as well as the activities of railway marshalling yards, including waste of this nature which is generated from a residential premises as a result of a business activity, regardless of whether or not the activity is being lawfully conducted from those premises, but does not include building waste, business waste, domestic waste or special industrial waste;

“municipal council” or **“council”** means the eThekweni municipal council, a municipal council referred to in section 157(1) of the Constitution;

“Municipality” means the eThekweni Municipality, a category A Municipality as envisaged in terms of section 155(1) of the Constitution of South Africa and established in terms of Provincial Notice No. 343 of 2000 (KZN);

“municipal manager” means a person appointed in terms of section 54A of the Municipal Systems Act as the head of administration of the municipal council;

“mutagen” means a physical or chemical agent that increases the frequency of mutations by changing the genetic material of an organism;

“occupier” includes—

- (a) any person, including the owner, in actual occupation of premises regardless of the title under which he or she occupies those premises, if any; and

(b) in the case of premises let to more than one tenant, the person who receives the rent payable by the tenants, whether for his or her own account or as an agent for a person entitled to the rent;

“owner” means—

(a) the person who is the registered owner of the premises in the relevant Deeds Office;

(b) where the registered owner of the premises is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of his or her property is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;

(c) in any case where the Municipality is unable to determine the identity of such person, a person who is entitled to the benefit of the use of the premises or a building or buildings on the premises;

(d) in a case where such premises have been leased for a period of 30 years or longer, the lessee of the premises; or

(e) in relation to—

(i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986) as common property, the developer or the body corporate in respect of the common property; or

(ii) a section as defined in the Sectional Titles Act, the person in whose name such section is registered under a sectional title deed, and includes the lawfully appointed agent of such a person;

“public place” means—

(a) a public road;

(b) a public parking space; or

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

“public road” means any road, street or thoroughfare or any other place, whether a thoroughfare or not, which is 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;

“premises” means any erf or land, building, room, structure, tent, van, vehicle, stream, lake, dam, pool, lagoon, an opened, covered or enclosed drain or ditch, whether improved or not and whether public or private;

“recyclable waste” means any waste intended for recycling or a remanufacture process and which is separated from other waste and managed as a potential resource by the waste generator or someone acting on his or her behalf;

“recycling” means the collection, selection or removal of waste for the purpose of reselling or re-using selected materials in a manufacturing, remanufacturing or other process;

“residential premises” means premises occupied for the purposes of human habitation, but excludes an accommodation establishment as defined in the Municipality's Accommodation Establishment By-law;

“seashore” means the seashore as defined in the National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008);

“skip” means a container, with a capacity of between 6m³ and 18m³, designed for the temporary storage of waste and to be loaded onto a truck for removal, rather than being emptied on site;

“special domestic waste” means domestic waste which cannot by virtue of its mass, shape or size be conveniently—

- (a) stored in a waste container; or
- (b) removed as part of the Municipality's normal domestic waste removal service;

“special industrial waste” means waste consisting of a liquid or sludge, resulting from—

- (a) a manufacturing process; or
- (b) the pre-treatment, for disposal purposes, of any industrial liquid waste, which, in terms of the Municipality's Sewage By-law, may not be discharged into a sewer without the consent of the Municipality, which consent has not been granted;

“tariff charge” means the prescribed charge for any service provided by the Municipality in terms of this By-law as set out in the tariff of charges adopted by resolution of the council;

“venue owner” means a person who owns, manages or is entitled to exercise the rights of an owner or occupier of a venue used for events, as defined in the Safety at Sports and Recreational Events Act, 2010 (Act No. 2 of 2010);

“waste” means any substance, as defined in the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), 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 waste by the Minister of Water and Environmental Affairs by notice in the Gazette, and
- includes waste generated by the mining, medical or other sector, but—
- (i) a by-product is not considered waste; and
 - (ii) any portion of waste, once re-cycled and recovered, ceases to be waste;

“waste bin” means a container designed for the temporary storage of waste, with a capacity of less than 2m³, whether wheeled or not, and which complies with—

- (a) South African Bureau of Standards specification 493-1973: Steel waste bins; or
- (b) South African Bureau of Standards specification 1310-1980: Waste bins of polymeric materials;

“waste container” means either a waste bin, a bulk waste container or a skip;

“waste disposal site” means a site, excluding a garden refuse site, for the disposal of waste and which site may be owned or set aside by–

- (a) the Municipality; or
- (b) a private person and operated by that person in terms of a permit or licence issued by a responsible authority;

“waste generator” means any person who, or entity which, generates or produces waste and includes–

- (a) the occupier of any premises on which waste is generated; and
- (b) in the case of premises which are occupied by more than one person, the owner of that premises;

“waste removal service” means the collection and removal of domestic, garden, industrial and business waste as provided for in this By-law; and

“water resource” means a river, spring or natural channel in which water flows regularly or intermittently, a wetland, lake or dam into which or from which water flows, surface water, an estuary or aquifer and includes any borehole, structure, earthwork or equipment installed or used for or in connection with the storage, distribution, provision or use of water.

Interpretation of By-law

2. If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails.

Objects of By-law

3. The objects of this By-law are to–

- (a) regulate the collection and removal of domestic waste and business waste by the Municipality in order to ensure the efficient and effective provision of this service;
- (b) provide for the collection and removal of other types of waste;
- (c) ensure proper waste management at events;
- (d) impose special requirements regarding the disposal of building waste;

- (e) provide for the registration of waste removal contractors;
- (f) prohibit dumping and impose appropriate penalties on dumping and other offences;
- and
- (g) manage and promote the recycling of waste.

Application of By-law

4. This By-law applies to all areas which fall under the jurisdiction of the eThekweni Municipality and is binding on all persons to the extent applicable.

CHAPTER 2 DOMESTIC AND BUSINESS WASTE

Domestic and business waste removal service

5.(1) The Municipality must itself, or through an authorised waste removal contractor, provide a service for the collection and removal of domestic waste and business waste from premises within its area of jurisdiction.

(2) The Municipality is not required to collect and remove business waste from any premises in respect of which—

- (a) the waste generator has given written notice that he or she wishes the Municipality to stop providing waste removal services;
- (b) the waste generator has contracted with an authorised waste removal contractor to provide waste removal services in respect of the premises; and
- (c) waste is being effectively and timeously removed from those premises.

(3) Where a waste generator has contracted with an authorised waste removal contractor as contemplated in subsection (2), the waste generator must provide proof to the reasonable satisfaction of the Municipality that a waste removal contract is in place.

Waste bins and bulk waste containers

6.(1) Waste generators must make adequate provision for the temporary storage of domestic waste and business waste in either waste bins or bulk waste containers.

(2) Every waste generator must ensure that all the domestic waste or business waste generated on his or her premises is placed and kept in waste containers for removal by the Municipality or an authorised waste removal contractor, as the case may be.

(3) Nothing in this By-law prevents any waste generator who has obtained the Municipality's prior written consent from—

- (a) selling or otherwise disposing of recyclable waste;
- (b) selling or disposing of swill for non-human consumption; or
- (c) using suitable domestic waste for making compost: Provided that—
 - (i) neither the waste nor the compost causes a nuisance or is a fire threat; and
 - (ii) the waste and the compost are kept on the premises on which they are generated or made and are not kept on any verge or neighbouring property.

(4) Every waste generator must ensure that all waste bins and bulk waste containers on his or her premises are—

- (a) kept clean and hygienic;
- (b) in good condition; and
- (c) replaced when necessary.

(5) In the event of non-compliance with this section, the Municipality may, in addition to any fines imposed on the waste generator, remove the waste container and have it cleaned at the expense of the waste generator.

(6) The Municipality may give written notice to any waste generator calling on him or her to comply with the provisions of this section within a period specified in the notice.

Waste containers supplied by Municipality

7.(1) The Municipality may, in its discretion, supply bulk waste containers or skips to premises if it considers these containers more suitable than waste bins in view of the—

- (a) quantity of the domestic or business waste generated on the premises;

(b) nature of the domestic or business waste and the suitability of waste bins for storing this type of waste; and

(c) accessibility of the waste storage area to the Municipality's waste collection vehicles.

(2) Waste containers supplied to a waste generator by the Municipality for the purpose of the temporary storage of domestic waste or business waste must be used only for the purpose of storing that waste.

(3) Waste containers supplied by the Municipality remain the property of the Municipality and may, at any time in the discretion of the Municipality, be replaced or removed by the Municipality.

(4) If the Municipality removes a bulk waste container, the occupier or owner of the premises concerned must immediately make adequate provision for the storage of waste in either waste bins or bulk waste containers.

(5) No waste generator may willfully or negligently damage a waste container supplied by the Municipality.

(6) Each waste generator is responsible for the safekeeping of any waste container supplied by the Municipality and is liable to the Municipality to replace any container which is lost or damaged, except where loss or damage is caused by the Municipality's employees.

(7) Each waste generator must immediately report to the Municipality any loss of or damage to a waste container supplied to him or her by the Municipality.

(8) No waste generator may, without the Municipality's prior written consent, remove waste containers from the premises in respect of which they were supplied by the Municipality.

(9) The Municipality may charge a rental at the applicable tariff charge in respect of any waste containers supplied by the Municipality to a waste generator.

Waste storage areas

8.(1) Every waste generator must provide a reserved waste storage area on his or her premises for the keeping of waste containers and such storage area must–

- (a) be appropriate given the number and size of the waste containers;
- (b) be such that the waste containers are not visible from a street or a public place;
- (c) comply with the Municipality's Building By-laws; and
- (d) comply with any other requirements of the Municipality.

(2) Each waste generator must–

- (a) place the waste containers, or cause the waste containers to be placed, in the waste storage area; and
- (b) at all times keep the waste containers in the waste storage area, except when they are removed for emptying.

(3) The waste generator must ensure that the–

- (a) waste storage area and the waste containers are kept neat, clean and hygienic at all times;
- (b) waste storage area and the waste containers do not cause a nuisance to any person; and
- (c) waste containers are properly covered by means of a lid or other covering supplied with the container.

Waste collection day

9.(1) The Municipality must indicate the days on which it will collect domestic waste and business waste from the different areas under its jurisdiction.

(2) A waste generator must, before 07:00 on waste collection day for the area within which his or her premises fall, ensure that all waste containers and disposable plastic refuse bags containing domestic waste or business waste are placed–

- (a) immediately outside the boundary of the premises;
- (b) on the nearest street boundary; or
- (c) in such other place as may be determined by the Municipality.

(3) The waste generator must ensure that the waste containers are properly closed and that they do not cause any obstruction to pedestrian or vehicular traffic.

Prohibited use of waste containers

10.(1) The following items may not be placed in any waste container:

- (a) hot ash;
- (b) unwrapped glass or china pieces or fragments;
- (c) waste or other waste material, including any liquid which, by reason of its mass or other characteristics, is likely to render the waste containers unreasonably difficult to handle; and
- (d) any other waste or other waste material which may cause damage to waste containers or waste removal vehicles or which may cause injury to the Municipality's employees while they carry out their duties in terms of this By-law, unless suitable steps have been taken to avoid such damage or injury.

(2) No person may place any item which is not domestic waste or business waste as defined in this By-law, in a waste container intended for domestic waste or business waste, and in addition, the following items may not be placed in a waste container intended for domestic waste or business waste:

- (a) any metal item;
- (b) timber rests;
- (c) soil, pebbles or rocks; and
- (d) any other material which is not commonly generated in gardens or households, or in businesses.

(3) In the event of non-compliance with this section, the Municipality may leave the waste container concerned unserviced and may, in addition, impose a fine on the waste generator.

Notice to Municipality of new waste generators

11.(1) The occupier of premises on which business waste or domestic waste is about to be generated for the first time or after a period of inactivity or, in the case of premises being occupied by more than one person, the owner of the premises must, notify the Municipality in writing before beginning to generate the waste.

(2) In notifying the Municipality of the generation of the waste, the occupier or owner, as the case may be, must provide the Municipality with full details of the waste to be generated and must, on request, supplement those details as required by the Municipality.

Notice to Municipality of changed circumstances

12.(1) The occupier of premises on which business waste or domestic waste is generated or, in the case of premises being occupied by more than one person, the owner of the premises must, notify the Municipality in writing within seven days of—

- (a) registration of transfer of ownership in the premises;
- (b) any change in the identity of an occupier of the premises;
- (c) new occupation of the premises following a period of non-occupation; and
- (d) any change in the nature, mass or volume of the waste generated.

(2) In notifying the Municipality of the changed circumstances, the occupier must provide the Municipality with full details of the change and must, on request, supplement those details as required by the Municipality.

Disposable plastic bags and waste containers for domestic waste

13.(1) The Municipality must provide each domestic waste generator with a—

- (a) number of refuse bags as determined by the Municipality; or
- (b) waste container if, in the Municipality's discretion, the waste generated by the waste generator is more appropriately stored in a waste container.

(2) The Municipality may, in its discretion, distribute the disposable plastic refuse bags at intervals which are convenient given its operations in each of the areas under its jurisdiction.

(3) Every waste generator must, if he or she has been provided with disposable plastic refuse bags by the Municipality, ensure that waste generated from his or her premises is placed only in waste bins lined with those bags and is not placed directly into a waste bin.

Tariffs: domestic and business waste removal

14.(1) Each waste generator is liable to the Municipality for the applicable tariff charge for the collection, removal and disposal of waste from premises on which domestic waste or business waste is generated.

(2) The occupier or owner, as the case may be, of premises on which domestic waste or business waste is generated remains liable for payment of the tariff until—

- (a) the occupier has submitted proof to the satisfaction of the Municipality that he or she is no longer liable for payment of the tariff in terms of this By-law; or
- (b) registration of transfer of the premises into the name of a new owner has taken place.

Home businesses: tariff charge for business waste

15.(1) Where business waste is generated as a result of business activities conducted from a residential premises, the waste generator concerned is liable to the Municipality for the applicable tariff charge for the collection, removal and disposal of business waste from premises.

(2) In the circumstances referred to in subsection (1), the Municipality shall be entitled to levy the tariff charge for the removal and disposal of business waste in respect of all waste generated in respect of the premises concerned, regardless of whether that waste is domestic waste or business waste.

CHAPTER 3

GARDEN REFUSE, SPECIAL DOMESTIC WASTE AND BULKY WASTE

No garden refuse, special domestic waste or bulky waste removal by Municipality

16. The Municipality is not obliged to collect and remove garden refuse, special domestic waste or bulky waste.

Garden refuse, special domestic waste or bulky waste removal

- 17.(1)** Each waste generator of garden refuse, special domestic waste or bulky waste must—
- (a) remove the waste and dispose of it at a waste disposal site against payment of the tariff charge; or
 - (b) make arrangements with an authorised waste removal contractor for the removal and the disposal of the waste at a waste disposal site at the waste generator's cost.

(2) Nothing in this By-law prevents a waste generator from retaining garden refuse for the purpose of making compost: Provided that—

- (a) neither the waste nor the compost causes a nuisance or is a fire threat; and
- (b) the waste and the compost are kept on the premises on which they are generated or made and are not kept on any verge or neighbouring property.

(3) The Municipality may, by notice in writing, instruct a waste generator who generates garden refuse, special domestic waste or bulky waste to comply with the provisions of subsection (1) or to dispose of the waste—

- (a) in such manner; and
- (b) at such frequencies,

as may be required by the Municipality.

Garden refuse sites

18.(1) Garden refuse must, once it has been removed from the premises on which it was generated, be deposited at a—

- (a) garden refuse site, subject to the requirements of subsection (2); or
- (b) waste disposal site.

(2) A waste generator may deposit reasonable quantities of garden refuse at a garden refuse site at no charge, unless otherwise determined by the Municipality, and provided that—

- (a) the waste was generated on residential premises;
- (b) the waste is delivered by means of a vehicle not exceeding a 750 kg or $\frac{3}{4}$ ton pay load; and
- (c) each waste generator deposits such waste not more than once a week.

(3) Garden refuse generated at an accommodation establishment, a bed and breakfast, a guest house or any other business premises may only be deposited at a waste disposal site or other designated site against payment of the tariff charge.

(4) The Municipality is entitled to levy the tariff charge on any waste deposited at a garden refuse site if it is reasonably satisfied that the waste was not generated at a residential premises or that it was delivered to the garden refuse site in a manner which does not comply with the provisions of this By-law.

(5) The Municipality shall be entitled to determine the operating hours of garden refuse sites, which times must be indicated on notice boards erected at these sites.

(6) No person may deposit any waste other than garden refuse at a garden refuse site except with the permission of the Municipality.

Disposal of special domestic waste and bulky waste

19. Special domestic and bulky waste must, once it has been removed from the premises on which it was generated, be deposited at a waste disposal site, against payment of the tariff charge.

Municipality's special service

20. At the request of the waste generator and against payment of the applicable tariff charge, the Municipality may, in its discretion, remove garden refuse, special domestic waste or bulky waste from any premises.

CHAPTER 4 INDUSTRIAL WASTE

No industrial waste removal by Municipality

21. The Municipality is not obliged to collect and remove industrial waste.

Industrial waste removal

22.(1) Each waste generator who generates industrial waste must—

- (a) remove, or cause to be removed, the waste and dispose of it at a waste disposal site against payment of the tariff charge; or
- (b) make arrangements with an authorised waste removal contractor for the removal of the waste and the disposal of the waste at a waste disposal site against payment of the tariff charge.

(2) The Municipality may, by written notice instruct a waste generator who—

(a) generates industrial waste; or

(b) keeps equine or bovine animals for the purpose of business or trade,

to remove the waste, or cause the waste to be removed, either to a waste disposal site or to an incinerator at the discretion of the Municipality or to dispose of it in such other manner as may be approved by the Municipality.

(3) In giving notice in terms of subsection (2), the Municipality may instruct that the waste be removed and disposed of at any frequency deemed reasonably appropriate by the Municipality.

(4) Where a waste generator has contracted with an authorised waste removal contractor for the removal of industrial waste, the waste generator must, on written request from the Municipality, provide proof to the reasonable satisfaction of the Municipality that a waste removal contract is in place.

Waste bins and bulk waste containers: industrial waste

23.(1) Waste generators must—

(a) make adequate provision for the temporary storage of industrial waste in either waste bins or bulk waste containers; and

(b) comply with the provisions of section 6 to the extent applicable.

(2) The Municipality has the same powers in respect of waste generators who produce industrial waste as it has in respect of the generators of domestic and business waste as set out in section 6.

Waste storage areas: industrial waste

24. Waste generators must—

(a) provide a reserved waste storage area on his or her premises for the keeping of waste containers; and

(b) comply with the provisions of section 8 to the extent applicable.

Municipality's special service: industrial waste

25. At the request of the waste generator and against payment of the applicable tariff charge, the Municipality may, in its discretion, remove industrial waste from any premises.

CHAPTER 5

SPECIAL INDUSTRIAL WASTE, HAZARDOUS WASTE AND HEALTH CARE WASTE

No special industrial waste, hazardous waste and health care waste removal by Municipality

26. The Municipality is not obliged to collect and remove special industrial waste, hazardous waste or health care waste.

Special industrial waste, hazardous waste and health care waste removal

27.(1) Each waste generator who generates special industrial waste, hazardous waste or health care waste must–

- (a) remove, or caused to be removed, such waste and dispose of it at a waste disposal site against payment of the tariff charge; or
- (b) make arrangements with an authorised waste removal contractor for the removal of the waste and the disposal of the waste at a waste disposal site against payment of the tariff charge.

(2) The Municipality may, by notice in writing, instruct a waste generator who generates special industrial waste, hazardous waste or health care waste to remove the waste, or cause the waste to be removed, either to a waste disposal site or to an incinerator at the discretion of the Municipality or to be disposed of in such other manner as may be approved by the Municipality.

(3) Where a waste generator has contracted with an authorised waste removal contractor for the removal of special industrial waste, hazardous waste or health care waste, the waste generator must on written request from the Municipality provide proof, to the reasonable satisfaction of the Municipality, that a waste removal contract is in place.

Waste bins and bulk waste containers

28.(1) Waste generators must–

- (a) make adequate provision for the temporary storage of special industrial waste, hazardous waste and health care waste in either waste bins or bulk waste containers; and
- (b) comply with the provisions of section 6 to the extent applicable.

(2) The Municipality has the same powers in respect of waste generators who produce special industrial waste, hazardous waste and health care waste as it has in respect of the generators of domestic and business waste as set out in section 6.

Special industrial waste, hazardous waste and health care waste storage areas

29.(1) Waste generators must–

- (a) provide a reserved waste storage area on his or her premises for the keeping of waste containers;
- (b) ensure that the area is suitable for the storage of waste;
- (c) store the waste and ensure that any sharps or other hazardous items are stored in such a manner that it does not become a nuisance or a safety hazard or pollute the environment; and
- (d) comply with the provisions of section 8 to the extent applicable.

(2) If special industrial waste, hazardous waste or health care waste is not stored in accordance with the provisions of this By-law, the Municipality may order the waste generator to remove the waste within a reasonable time and, if the waste is not removed within that time, the Municipality may, at the waste generator's expense, remove the waste itself or have the waste removed.

Notification of generation of waste

30.(1) A waste generator who generates special industrial waste, hazardous waste or health care waste must notify the Municipality, before beginning to generate that waste, of–

- (a) the composition of the waste;
- (b) the quantity of the waste;
- (c) the method of storage of the waste;

- (d) the proposed duration of the storage of the waste; and
- (e) the manner in which the waste will be removed, in terms of the provisions of section 27.

(2) If required by the Municipality, the notification referred to in subsection (1) must be substantiated by an analysis of the waste certified by an appropriately qualified industrial chemist or a person designated by the Municipality.

(3) Subject to the provisions of any applicable legislation, an authorised official may enter any premises at a reasonable time to ascertain whether special industrial waste, hazardous waste or health care waste is generated on the premises and may take samples of and test any waste found on the premises to ascertain its composition.

(4) A person referred to in subsection (1) must notify the Municipality of any changes in the composition and quantity of the special industrial waste, hazardous waste or health care waste occurring after the notification in terms of subsection (1).

Special industrial waste, hazardous waste and health care waste removal service

31.(1) No person may operate or conduct a waste removal service for special industrial waste, hazardous waste or health care waste, irrespective of whether such service is rendered for payment or not, unless that person has the written consent of the Municipality.

(2) The Municipality may refuse or grant consent subject to such terms and conditions as the Municipality may deem fit.

(3) The waste generator may only have special industrial waste, hazardous waste or health care waste removed by a waste removal contractor approved by the Municipality in compliance with the relevant legislation.

(4) Special industrial waste, hazardous waste and health care waste may only be transported by a waste removal contractor who is approved by the Municipality and meets the Municipality's requirements in respect of the—

- (a) competence of the contractor to remove the particular type of waste concerned;
- (b) containers used by the contractor;
- (c) markings on the containers used by the contractor;

- (d) manner of construction of the containers used by the contractor;
- (e) contractor's procedures for safety and cleanliness; and
- (f) contractor's documentation relating to the source, transportation and disposal of waste.

(5) An authorised waste removal contractor must inform the Municipality, at such intervals as the Municipality may stipulate, of the—

- (a) removal of special industrial waste, hazardous waste or health care waste;
- (b) identity of the contractor who will remove the waste;
- (c) date on which the waste will be removed; and
- (d) quantity and the composition of the waste to be removed.

(6) Should a person be convicted of contravening the provisions of this section, he or she must, notwithstanding any penalty imposed on him or her, dispose of the waste as directed by the Municipality or, alternatively, the Municipality may dispose of the waste itself at the expense of that person.

CHAPTER 6

BUILDING WASTE

No building waste removal by Municipality

32. The Municipality is not obliged to collect and remove building waste.

Building waste removal

33.(1) Each waste generator who generates building waste must—

- (a) remove, or cause to be removed, such waste and dispose of it at a waste disposal site against payment of the tariff charge; or
- (b) make arrangements with an authorised waste removal contractor for the removal of the waste and the disposal of the waste at a waste disposal site against payment of the tariff charge.

(2) The Municipality may, by notice in writing, instruct a waste generator who generates building waste to remove the waste, or cause the waste to be removed, either to a waste disposal site or to an incinerator at the discretion of the Municipality or to be disposed of in such other manner as may be approved by the Municipality.

(3) In giving notice in terms of subsection (2), the Municipality may instruct that the waste be removed and disposed of at any frequency deemed reasonably appropriate by the Municipality.

(4) Where a waste generator has contracted with an authorised waste removal contractor for the removal of building waste, the waste generator must on written request from the Municipality, provide proof to the reasonable satisfaction of the Municipality that a waste removal contract is in place.

(5) Any building contractor whose activities produce building waste is jointly and severally liable with the waste generator to ensure that the waste is removed and disposed of in terms of this section.

Storage of building waste

34. The waste generator and the building contractor whose activities produce the building waste must ensure that—

- (a) adequate provision for the temporary storage of building waste is provided;
- (b) the waste is not unsightly;
- (c) it does not constitute a nuisance or a safety hazard to any person; and
- (d) it does not pollute the environment.

Disposal of building waste

35.(1) It is an offence for any person to deposit building waste at any place other than a waste disposal site.

(2) Builder's waste may, with the prior written consent of the Municipality, be deposited at a place other than one of the Municipality's waste disposal sites for the purpose of reclaiming land.

(3) Any consent given in terms of subsection (2) must be subject to such conditions as the Municipality may deem necessary: Provided that in giving or refusing its consent or in laying down conditions, the Municipality must have regard to—

- (a) the safety of the public;
- (b) the environment of the proposed disposal site;
- (c) the suitability of the area including the drainage thereof;
- (d) the expected manner and times of depositing of waste at the site;
- (e) the levelling of the site;
- (f) the control of dust; and
- (g) any other relevant factors.

(4) Every waste generator, building contractor and waste removal contractor is obliged, when depositing building waste at a waste disposal site, to obtain and retain for a period of 12 months a weigh bill from the authorised official at the waste disposal site confirming the nature and weight of building waste deposited.

(5) It shall be presumed, until the contrary has been proven, that building waste has been disposed of contrary to the provisions of this section if the waste generator, building contractor or waste removal contractor is unable to produce a weigh bridge certificate or certificates confirming that—

- (a) the building waste was disposed of at a waste disposal site; or
- (b) an amount of building waste was disposed of at a waste disposal site which could reasonably be expected to have been generated from the building operations concerned as determined by the Head of Department or any other qualified person designated by him or her.

CHAPTER 7

EVENT WASTE

Responsibility for event waste

36.(1) An event organiser and venue owner, as defined in section 1, is responsible for storing, collecting, recycling and disposing of waste generated before, during and after an event.

(2) An event organiser and venue owner must ensure that an authorised waste removal contractor is contracted to collect and dispose of waste generated before, during and after an event in terms of this By-law.

Integrated waste management plans for events

37.(1) An event organiser and venue owner must develop an integrated waste management plan in respect of each event.

(2) The integrated waste management plan must—

- (a) be delivered to the Municipality at least 10 working days before the proposed event; and
- (b) deal with at least the following matters:
 - (i) the full names and contact details of the event organiser;
 - (ii) the full names and contact details of the owner of the premises at which the event will be held;
 - (iii) the nature and duration of the event;
 - (iv) the estimated costs of waste management associated with the event; and
 - (v) the information as required under subsection 38(2).

(3) The Municipality must consider the integrated waste management plan and—

- (a) approve it subject to any conditions;
- (b) request that additional information be furnished within a specified time frame;
- (c) require amendments to be made within a time frame so specified; or
- (d) reject the plan and provide reasons therefore.

(4) If an event organiser and venue owner fail to comply with any provision of this section or the integrated waste management plan submitted in terms of this section, the Municipality may arrange for the collection, recycling and disposal of the waste at the cost of the event organiser and venue owner and recover the cost from the deposit paid.

(5) If no deposit was paid by the event organiser and venue owner, the event organiser and venue owner are jointly and severally liable for any expenses incurred by the Municipality in this regard.

(6) Should an event holder fail to provide an integrated waste management plan in respect of an event, the Municipality may appoint a service provider to obtain information and prepare a plan at the cost of the event organiser.

CHAPTER 8

WASTE MANAGEMENT PLANS

Integrated waste management plans

38.(1) An integrated waste management plan must be submitted to the Municipality by waste generators who generate the following types of waste before they begin generating such waste:

- (a) business waste;
- (b) industrial waste;
- (c) building waste;
- (d) event waste;
- (e) hazardous waste; and
- (f) health care waste.

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

- (a) a description of the type of waste that will be generated;
- (b) an assessment of the quantity of waste that will be generated;
- (c) the premises at which the waste will be generated;
- (d) how waste generated will be stored, collected, recycled and disposed of;
- (e) the full names and contact details of any authorised waste removal contractor contracted by the waste generator and proof that he or she has been contracted to collect and dispose of waste;
- (f) a description of how the waste generator intends separating recyclable and non-recyclable material at the point of source;
- (g) a description of the waste generator's waste minimisation and pollution prevention plans;
- (h) an assessment of the impact or potential impact on the environment of the waste generated;
- (i) the waste generator's targets for waste reduction, re-use and recycling; and

(j) the waste generator's reduction measures or programmes that can minimise the consumption of natural resources.

(3) The Municipality may, on 90 days notice, instruct any waste generator to supply a new or amended integrated waste management plan in order to comply with this By-law and any other relevant legislation.

(4) When instructed to submit an integrated waste management plan or a new or amended integrated waste management plan in terms of this By-law, a waste generator shall do so within the time stipulated in the instruction.

(5) The Municipality must consider the integrated waste management plan and—

- (a) approve it subject to any conditions;
- (b) request that additional information be furnished within a specified time frame;
- (c) require amendments to be made within a time frame so specified; or
- (d) reject the plan and provide reasons therefore.

(6) If an integrated waste management plan is rejected or not submitted at all, the Municipality shall give directives as to what waste management measures must be taken by the waste generator and should the waste generator fail to take such measures within the time frame specified by the Municipality, the Municipality may implement such measures and the waste generator will be liable for the cost thereof.

(7) The Head of Department may by written notice require any person to provide such information as he or she requires when considering an integrated waste management plan.

(8) Should a person fail to provide the information referred to in this section, the Municipality may appoint a service provider to obtain information and prepare a plan at the cost of the waste generator.

Exemptions from submitting an integrated waste management plan

39.(1) A waste generator may apply in writing for exemption from the requirement to prepare an integrated waste management plan.

(2) The Municipality may declare—

- (a) certain classes of waste;
- (b) a particular mass or volume of waste;
- (c) a particular waste generator or a class of waste generators; or
- (d) waste generators whose waste management plans have been approved by other spheres of government in terms of applicable legislation,

to be exempt from the requirement to submit an integrated waste management plan.

CHAPTER 9

RECYCLING, RE-USE, SORTING AND REDUCTION OF WASTE

Recycling, re-use, sorting and reduction of waste

40.(1) No person may, except for their own domestic purposes—

- (a) recycle, re-use or recover waste;
- (b) sort waste; or
- (c) operate as a scrap dealer or buy-back centre,

without a permit issued by the Municipality .

(2) When applying for a permit from the Municipality, the applicant must—

- (a) submit an environmental impact assessment or any similar assessment required by national or provincial legislation, showing that the proposed recycling, re-use or reduction of the waste will be less harmful to the environment than its disposal;
- (b) submit an integrated waste management plan; and
- (c) comply with any other requirements set by the Municipality.

(3) Any person who handles, transports, processes, treats or disposes of waste for recycling purposes must provide the Municipality with a written report on their activities in a format and at such frequencies as may be determined by the Municipality.

(4) The Municipality may exempt waste generators, handlers, transporters or agents from the requirements of this Chapter in circumstances where the mass or volume of the waste generated is below a threshold stipulated by the Municipality.

(5) The Municipality may determine–

- (a) categories of waste which must be recycled;
 - (b) categories of waste generators which must engage in specified forms of recycling;
- and
- (c) standards and other rules applicable to recycling.

CHAPTER 10

WASTE DISPOSAL SITES

Waste prohibited at municipal disposal sites

41.(1) No person may deliver to, or discharge at, a municipal waste disposal site any of the following types of waste without the specific prior written approval of the Municipality:

- (a) any waste which is a fire hazard by virtue of having a closed cup flashpoint greater than 61°C;
- (b) any waste containing a substance which is a Group A or Group B carcinogen as defined by the International Agency for Research on Cancer;
- (c) any waste containing a substance which is a Group C or Group D carcinogen as defined by the International Agency for Research on Cancer at a concentration greater than 1%;
- (d) any waste containing a substance which is a mutagen;
- (e) any health care waste, unless it has been incinerated at 800°C or higher for at least 1 second;
- (f) any waste containing a substance with a median lethal dose of LD50 for acute oral toxicity, as defined in SABS 0228: 1995, less than or equal to 5000 milligrams per kilogram;
- (g) any waste containing a substance with a median lethal dose of LD50 for acute dermal toxicity, as defined in SABS 0228: 1995, less than or equal to 2000 milligrams per kilogram;
- (h) any waste containing a substance with a lethal concentration of LC50 for acute toxicity on inhalation, as defined in SABS 0228: 1995 less than or equal to 10 milligrams per litre;
- (i) any waste with a pH less than 6 or greater than 12;

- (j) any waste which falls into Class 1 (explosives), Class 2 (compressed gases) or Class 7 (radioactive materials) as specified in SABS 0228:1995;
- (k) any waste containing a substance listed in SABS 0228:1995;
- (l) any waste which is difficult to analyse and classify;
- (m) paints and paint sludges;
- (n) laboratory chemicals;
- (o) any waste which will or might reasonably chemically attack the waste disposal facility; and
- (p) any waste which separately, or when mixed with other waste, creates or has the potential to create a health hazard or a nuisance.

(2) The waste generator and any waste removal contractor are jointly and severally liable for any costs incurred by the Municipality in remedying damage or in abating any nuisance caused by the discharge of waste at a disposal site in contravention of this By-law, and for the amount of any legal liability or costs incurred by the Municipality in respect of any claim arising from any nuisance.

Conduct at municipal disposal sites

42.(1) No person may enter a waste disposal site controlled by the Municipality for any purpose other than the disposal of waste in terms of this By-law and then only at such times and between such hours as the Municipality may from time to time determine.

(2) Every person who, for the purpose of disposing of waste, enters a waste disposal site controlled by the Municipality must—

- (a) enter the waste disposal site only at an authorised access point as indicated by the Municipality;
- (b) present the waste for weighing in the manner required by the authorised official;
- (c) give to the authorised official all the particulars required in regard to the composition of the waste;
- (d) follow all instructions given to him or her with regard to access to the actual disposal point, the place where and the manner in which the waste should be deposited;
- (e) provide the authorised official with full information as to the person who is liable to pay the tariff charge for the waste deposited to enable an account to be rendered to him or her, and

(f) provide the authorised official with a cash payment on his or her own behalf or on behalf of any person who is liable to pay the tariff charge for the waste deposited,
: Provided that the provisions of paragraphs (b), (c) and (e) above do not apply to a person who, in terms of section 18(2) of this By-law, has entered a disposal site for the purpose of disposing of garden refuse.

(3) No person may bring any intoxicating liquor or any drug onto a waste disposal site controlled by the Municipality.

(4) No person may cause or allow a vehicle in his or her charge to remain at a disposal site for longer than is necessary for the discharge of waste.

(5) If for any reason a vehicle becomes incapable of leaving the site under its own power the person in charge of the vehicle must take immediate steps to prevent any obstruction on the site by the vehicle and to remove it from the site.

(6) In failing to comply with subsection (5), an authorised official may take steps to remove the vehicle from the site, or cause these steps to be taken, at the cost of the owner of the vehicle.

(7) Neither the Municipality nor any employee of the Municipality incurs liability to the owner for any loss or damage which may be suffered by him or her as a result of any action taken in terms of subsection (6).

(8) No person may deliver to or discharge at a waste disposal site any liquid waste or cause the same to be done, except with the prior written permission of the Municipality and in accordance with such conditions as may be imposed by it.

Waste suitable for use

43. Notwithstanding anything contained in this By-law, no charge is payable when a person wishes to deposit at a waste disposal site controlled by the Municipality any waste approved by the Municipality as suitable for top cover, road surfacing or other purposes connected with the waste disposal site.

CHAPTER 11

PRIVATE WASTE REMOVAL CONTRACTORS

Private waste removal contractors

44.(1) Waste may only be collected and removed from premises by a waste removal contractor who has been—

- (a) issued with a scheduled activity permit in terms of the Municipality's Scheduled Activities By-law; and
- (b) authorised in writing by the Municipality.

(2) Application for authorisation as a waste removal contractor must be made to the Municipality on the form prescribed.

(3) The authority contemplated by subsection (1) may be granted or refused at the discretion of the Municipality and may be subject to such conditions, whether as to period of validity, the type of waste which may be collected and removed, or otherwise, as the Municipality may impose.

(4) No person must hold himself or herself out to be, or act as, a waste removal contractor if—

- (a) he or she has not been authorised to do so in terms of subsection (1); or
- (b) his or her approval has expired or been withdrawn.

(5) No waste removal contractor may contravene any condition imposed on him or her in terms of subsection (3).

(6) No person may employ a waste removal contractor who has not been authorised in writing by the Municipality in terms of subsection (1).

(7) Any waste generator who intends to appoint an authorised waste removal contractor must notify the Municipality in writing of that fact and must likewise notify the Municipality whenever such engagement is terminated.

(8) If the waste generator has given notice in terms of subsection (7), the waste generator is thereafter responsible for ensuring that waste, excluding domestic waste, is collected and

removed in compliance with the provisions of this By-law within a reasonable time after the generation thereof.

(9) The Municipality may, if waste is not being collected and removed to the Municipality's satisfaction from any premises by an approved waste removal contractor, by written notice to a waste generator instruct him or her to terminate the services of the contractor concerned and to use the service provided by the Municipality for the collection and removal of waste with effect from a date specified in such notice.

(10) A waste removal contractor may not remove waste from any premises unless he or she is provided with proof that the waste generator has notified the Municipality in writing that the waste generator has entered into a contract with a waste removal contractor for the removal of such waste and that the Municipality should not provide a service to the premises for its removal.

(11) If the Municipality believes that there are grounds to suspend or withdraw authorisation given to a waste removal contractor, the following procedure must be followed:

- (a) the Municipality must give the waste removal contractor at least 21 days written notice by hand delivery or registered mail of the Municipality's intention to suspend or withdraw the authorisation;
- (b) the notice referred to in paragraph (a) must include:
 - (i) a statement setting out the nature of the proposed action;
 - (ii) the reasons for the proposed action;
 - (iii) an invitation to make written representations on the matter;
 - (iv) an address at which representations may be submitted; and
 - (v) the date, time and place of a hearing, which may not be less than 15 days from the date of the notice, to consider the suspension or withdrawal, and an indication that the waste removal contractor may submit representations and appear at the hearing;
- (c) the waste removal contractor must be given an opportunity to, either personally or through his or her duly authorised representative, appear at a hearing and to make representations before the Head of Department;
- (d) if a waste removal contractor wishes to appear at a hearing and to oppose the proposed action, he or she must, within seven days of receiving the notice or within a further period that the Municipality may allow, submit representations in writing by hand or by registered mail to the address indicated in the notice; and

(e) after the hearing, the Head of Department must give a ruling on whether or not to suspend or withdraw the authorisation and must give the waste removal contractor its reasons for the ruling in writing not later than 14 days after the date of the conclusion of the hearing.

CHAPTER 12

ENFORCEMENT

Accumulation of waste

45.(1) If waste accumulates on premises so as to constitute a nuisance, or in such a way that it is likely that a nuisance will be created, the Municipality may at the waste generator's cost remove the waste or cause the waste to be removed.

(2) Where the Municipality removes such waste, the waste generator shall be liable for the tariff charge of collecting and removing the waste.

Waste needing special treatment

46.(1) The Municipality may serve written notice on the occupier of any premises or in the case of vacant land, on the owner of the premises, requiring that special measures be taken for the collection, temporary storage, disposal or treatment of any waste on the premises concerned, within such time period as may be stipulated, if the Municipality is of the opinion that the measures are required in order to avoid or remove a health hazard or nuisance.

(2) Failure to comply with a notice issued in terms of subsection (1) is an offence.

(3) In the event of non-compliance with subsection (1), the Municipality may, in addition to any fines imposed on the waste generator, arrange for such measures to be carried out at the expense of the person on whom the notice was served.

Access to premises

47.(1) An authorised official is entitled to access any premises on which waste is generated for the—

- (a) purpose of ensuring compliance with this By-law; and
- (b) delivery of any notice required under this By-law.

(2) An authorised official is entitled to take samples of waste and to test any waste found on the premises in order to ascertain its composition.

Transporting of waste

48.(1) Any person removing or transporting waste or other offensive matter must remove the waste or matter—

- (a) only by means of a properly constructed and enclosed vehicle; and
- (b) in such manner as will prevent the waste from accidentally falling from the vehicle or from any other nuisance arising.

(2) No person may, without the prior written consent of the Municipality, transport waste from any premises along a street or public place in order to gain access to a waste storage area located elsewhere on the same premises.

(3) The Municipality may serve a written notice upon any person who transports waste or offensive material by means of a street or public place, imposing any conditions on the manner in which, or the times during which, waste may be transported if it is of the opinion that the transport of the waste is likely to be objectionable or to give rise to nuisance.

CHAPTER 13

OFFENCES AND PENALTIES

Dumping: general

49.(1) No person may dump waste in a manner not permitted in terms of this By-law, nor may any person allow a person under his or her control to do so.

(2) Any person found guilty of dumping shall be liable for a fine or imprisonment as set out in this By-law.

(3) The Municipality may take such measures as are necessary to remove and dispose of waste which has been dumped and the person responsible for dumping the waste shall, in addition to any penalties imposed in terms of this By-law, be liable for the Municipality's costs in removing and disposing of the waste.

Dumping on private land

50.(1) The owner 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.

(2) If subsection (1) is contravened, the Municipality may direct, by way of a written notice to the owner, that he or she—

- (a) cease the contravention, in a specified time;
- (b) prevent a further contravention or the continuation of the contravention; and
- (c) take whatever measures the Municipality considers necessary to clean up or remove the waste and to rehabilitate the area, to ensure that the waste and any contaminated material which cannot be cleaned or rehabilitated is disposed of lawfully.

(3) The Municipality may in respect of the notice contemplated in subsection (2)(c) state that the owner must, within a maximum of five working days remove the waste or litter, provided the Municipality may grant a further 2 days, on request by the owner, to remove the litter or waste.

(4) A person who owns land or premises, or who is in control of or has a right to use land or premises, must—

- (a) not use or permit the use of the land or premises for unlawful dumping of waste;
- (b) take reasonable steps to prevent the use of the land or premises for that purpose; and
- (c) report all unlawful dumping of waste on the land or premises to the Municipality.

(5) The Municipality may take such measures as are necessary to remove and dispose of waste which has been dumped in contravention of subsection (4) and the person

responsible for dumping the waste shall, in addition to any penalties imposed in terms of this By-law, be liable for the Municipality's costs in removing and disposing the waste.

Dumping: whistle blowing

51.(1) The Municipality may establish mechanisms to assist members of the public to report instances of dumping in contravention of this By-law.

(2) Any whistle blowing mechanism established in terms of subsection (1) may, at the discretion of the Municipality, provide for the reporting of dumping on an anonymous or other basis.

Dumping: naming and shaming

52.(1) The Municipality may publish the name of any person convicted of dumping in contravention of this By-law, along with details of that person's offence.

(2) The names and details of dumping in contravention of this By-law, as contemplated in subsection (1), may be published—

- (a) on the Municipality's website;
- (b) by posting these details on the Municipality's notice boards;
- (c) in the media; or
- (d) in any other manner deemed appropriate by the Municipality.

Offences

53. A person is guilty of an offence under this By-law if he or she—

- (a) unlawfully prevents an authorised official entry to his or her premises or causes or permits any other person to prevent entry;
- (b) obstructs or hinders an authorised official in the performance of his or her duties or causes or permits any other person to so obstruct or hinder the official;
- (c) refuses or fails to provide to an authorised official such information as is required to allow an authorised official to perform a function in terms of this By-law;
- (d) knowingly gives false or misleading information to an authorised official;
- (e) impersonates an authorised official;
- (f) contravenes or fails to comply with any provision of this By-law;

- (g) dumps waste;
- (h) contravenes any provision or condition in respect of a consent or authorisation given to him or her; or
- (i) contravenes or fails to comply with any order or notice lawfully issued under this By-law.

Penalties

54.(1) Any person who is convicted of an offence under this By-law shall be liable to a fine of an amount not exceeding R500 000 or to imprisonment for a period not exceeding 3 years, or to both such fine and imprisonment.

(2) In the case of a continuing offence, an additional fine of an amount not exceeding R500 or imprisonment for a period not exceeding 10 days, for each day on which such offence continues or both such fine and imprisonment, will be imposed

CHAPTER 14 MISCELLANEOUS PROVISIONS

Ownership of waste

55. All waste removed by the Municipality and all waste deposited at waste disposal sites controlled by the Municipality is the property of the Municipality.

Delegations

56.(1) Subject to the Constitution and applicable national and provincial laws, any—

- (a) power, excluding a power referred to in section 160(2) of the Constitution;
- (b) function; or
- (c) duty,

conferred in terms of this By-law upon the Municipality, or on any of the Municipality's other political structures, political office bearers, councillors or staff members, may be delegated or sub-delegated by such political structure, political office bearer, councillor, or staff member, to an entity within, or a staff member employed by, the Municipality.

(2) The delegation in terms of subsection (1) must be effected in accordance with the system of delegation adopted by the Municipality in accordance with section 59(1) of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000), subject to the criteria set out in section 59(2) of said Act.

(3) Any delegation contemplated in this section must be recorded in the Register of Delegations, which must contain information on the—

- (a) entity or person issuing the delegation or sub-delegation;
- (b) recipient of the delegation or sub-delegation; and
- (c) conditions attached to the delegation or sub-delegation.

Appeals

57. (1) A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may appeal against that decision in terms of the Appeals provision contained in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.

(2) The municipal manager must promptly submit the appeal to the appropriate appeal authority.

(3) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

(4) The appeal authority must confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights which may have accrued as a result of the decision.

(5) The appeal authority must furnish written reasons for its decision on all appeal matters.

(6) All appeals lodged are done so in terms of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and not in terms of this By-law.

(7) Where a conviction has been affirmed by a court of law and the accused wishes to appeal such conviction, the appeal must take place in terms of the court's appeal process and not in terms of subsections (1) to (5).

Repeal of laws and savings

58.(1) The laws mentioned in the first and second columns of Schedule 1 to this By-law are hereby repealed to the extent set out in the third column of the said Schedule.

(2) All notices published under the Refuse Removal By-law, Municipal Notice number 47 of 2002 remain in full force and effect as if the said By-law has not been repealed as contemplated in subsection (1).

(3) Any rights accrued or obligations incurred as contemplated in the laws referred to in subsection (2) remain in force, as if those laws have not been repealed.

Short title and commencement

59. This By-law is called the eThekweni Municipality Waste Removal By-law, 2016 and takes effect six months from the date of publication thereof in the *Provincial Gazette* or on such earlier date as may be determined by the publication of a commencement notice in the *Provincial Gazette*.

SCHEDULE 1:
LAWS REPEALED
(Section 58)

BY-LAW OF THE FORMER MUNICIPALITY OF DURBAN

<i>Number and year of law</i>	<i>Title</i>	<i>Extent of repeal</i>
Municipal Notice No. 40 of 1985	Tariff of Charges in terms of the Refuse Removal By-laws, Municipality of Durban	The whole
Municipal Notice No. 47 of 2002	Refuse Removal By-laws, eThekweni Municipality	The whole