



The Smart, Creative and Developmental City  
**Ekurhuleni**  
METROPOLITAN MUNICIPALITY

**DRAFT  
INTEGRATED WASTE MANAGEMENT  
BY-LAWS**

*“Integrated Waste Management:*

*Promoting*

*Improved Service Delivery, Local Economic Development and Transformation”*

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**DRAFT**  
**INTEGRATED WASTE MANAGEMENT BY-LAWS**

To provide for integrated waste management and matters incidental thereto

**PRE-AMBLE**

**WHEREAS** the Council has the Constitutional obligation to provide services including refuse removal, collection and disposal;

**AND WHEREAS** the National Environmental Management Act, 1998 (Act 107 of 1998) gives effect to the constitutional right aimed at protecting the environment by providing environmental management principles that apply throughout the Republic to the actions of all organs of state that may significantly affect the environment;

**AND WHEREAS** the National Environmental Management: Waste Act, 2008 (Act 59 of 2008) acknowledges that waste management practices in many areas of the Republic are not conducive to a healthy environment and that sustainable development requires that the generation of waste is avoided, or where it cannot be avoided, that it is reduced, re-used, recycled or recovered and only as a last resort treated and safely disposed of to ensure that the environment is protected from the impact of waste;

**AND WHEREAS** poor waste management practices can have adverse impacts on the environment in and beyond Municipal boundaries;

**AND WHEREAS** the Council is committed to ensuring that all residents, organisations, institutions, businesses, visitors or tourist and public bodies are able to access services from a legitimate waste service provider;

**AND WHEREAS** the Council wishes to regulate waste collection, separation, storage, processing, treatment, recycling, reuse and disposal; as well as littering, illegal dumping facilities used for the management of waste, with the ultimate aim of avoiding or minimising the generation and impact of waste;

**AND WHEREAS** the Council promotes the waste hierarchy approach as outlined in the National Waste Management Strategy;

**BE IT THEREFORE ENACTED THEREFORE** by Ekurhuleni Metropolitan Council as follows:

## CHAPTER 1: INTERPRETATION, PURPOSE, AND FUNDAMENTAL PRINCIPLES

### 1. DEFINITIONS

In these By-laws, unless the context indicates otherwise:–

“**accreditation**” means registering with the Council in terms of Chapter 7 of these By-laws;

“**accredited service provider**” means any person registered with the Council in terms of Chapter 7 of these By-laws;

“**approved waste receptacle**” means a disposable or re-usable receptacle provided by the Council or approved by the Council as set out in Schedule 2 in which waste is placed for the purposes of storing, accumulating, handling, transporting, treating or disposing of that waste, and includes approved bins, bin-liners, wrappers and skips;

“**authorised official**” means any official of the Council who has been authorised or designated by the Council to administer, implement and enforce the provisions of these By-laws, or an employee of a service provider acting within the scope of the powers, functions and duties assigned to that service provider by the Council if the Council has for the purpose of the By-laws appointed a service provider;

“**building waste**” means waste, excluding hazardous waste, produced during the construction, alteration, repair or demolition of any structure, and includes building rubble, earth, vegetation and rock displaced during such construction, alteration, repair or demolition;

“**commercial business waste**” means waste generated on premises used for non-residential purposes. For the avoidance of doubt, commercial business waste includes:

- (a) hazardous waste,
- (b) healthcare risk waste,
- (c) building waste,
- (d) industrial waste,
- (e) organic waste,
- (f) un-compactable waste,
- (g) general business waste and
- (h) recyclable waste,

generated on such premises;

“**commercial service**” means:

- (a) the collection and transportation of commercial business waste and general business waste, but does not include transportation by a generator of its waste, or
- (b) the conducting or undertaking of a listed waste management activity within the jurisdiction of the Council and any waste management service which must be licenced or authorised by national or provincial authorities, or

(c) the collection, transportation, sorting, storage, recycling or recovery of waste with the intention of making profit

**“Council”** means –

a) Ekurhuleni Metropolitan Council established means the Ekurhuleni Metropolitan Municipality as established in terms of Section 12(1) read with Section 14(2) of the Local Government Municipal Structures Act, Act 117 of 1998, as promulgated in notice no. 6768 of 2000, Gauteng Provincial Gazette no. 141, dated 1 October 2000,

b) its successor in title, or

c) a structure or person exercising a power delegated in these By-laws or carrying out an instruction, which power has been delegated or sub-delegated or which instruction has been given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), or

d) a service provider appointed by the Council to deliver waste management services on its behalf, as the case may be;

**“dailies”** means putrescible waste generated from processing, handling and production of food and food products by non-residential premises which include hotels, restaurants, food shops, hospitals, and canteens that must be collected on a daily basis, to prevent the waste from decomposing and presenting a nuisance or an environmental or health risk;

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

**“developer”** means an agent or any other person acting on behalf of a person who owns land, building or any undivided share in such land or building situated within the Council's jurisdiction;

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

**“domestic waste”** means waste, excluding hazardous waste, generated on premises used mainly for residential, educational, health care, sport and recreation purposes, but does not include commercial business waste or general business waste or organic waste ;

**“dump”** means to dispose of waste in any manner other than one permitted by law and includes, without derogating from the generality of the a foregoing, to deposit, discharge, spill or release waste, whether or not the waste is in a container in or at any place whatsoever whether publicly or privately owned including but not limited to vacant land, rivers, waterways, catchments, and sewage and storm water systems but excludes littering;

**“environment”** has the meaning assigned to it in section 1 of the National Environmental Management Act, 1998 (Act No 107 of 1998), as amended from time to time;

**“environmental emergency”** means any unexpected or sudden occurrence resulting from any act or omission; relating to waste and leading to serious danger to the public or potentially serious pollution of or damage to the environment, whether immediate or delayed;

**“event”** means sporting, entertainment, recreational, religious, cultural, exhibitional, organisational or similar activities hosted at a venue or along a route or within respective precincts to which the public has access

**“event waste”** means waste that originates from an event held within the Council's jurisdiction;

**“e-waste”** any waste created by discarded electronic devices and components as well as substances involved in their manufacture or use.

**“formalised recycling group”** means a group of persons whose main objective is the promotion of waste minimisation amongst the group and undertaking of recycling, processing,

**“garden waste”** means waste generated as a result of normal domestic gardening activities, including grass cuttings, leaves, plants, flowers and other similar small and light organic matter, but does not include tree branches with a diameter thicker than 40 mm at any point of its length, un-compactable waste and any waste generated as a result of commercial garden service activities; treating or recovery of waste;

**“garden waste handling facility”** means a waste handling facility in or on which organic waste is received and temporarily stored;

**“general business waste”** means waste generated on premises used for non-residential purposes, but does not include commercial business waste generated on such premises;

**“generator of waste”** means any person who generates or produces waste;

**“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/or the environment , and hazardous emanating from e-waste;

**“health care risk waste”** means all hazardous waste generated at any health care facility such as a hospital, clinic, laboratory, medical research institution, dental or medical practitioner or veterinarian;

**“holder of waste”** means any person who imports, generates, stores, accumulates, transports, processes, treats, exports or disposes 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;

**“industrial waste”** means waste that emanate from manufacturing ,mining and other related activities;

“**informal recyclers**” means people who retrieve waste with a resale value from waste receptacles at residential and commercial premises; and informal recycling has a corresponding meaning

“**integrated waste management plan**” means any waste management plan required to be prepared in terms of these By-laws by specified generators or holders of waste including waste management plan required in sections..... of these By-laws;

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

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

“**local community**” in relation to the Council means that body of persons comprising-

- (a) the residents within its jurisdiction,
- (b) the ratepayers of the Council,
- (c) any civic organisation and non-governmental, private sector or labour organisation or body which is involved in local affairs within the Council's jurisdiction, and
- (d) visitors and other person residing outside of the Council's jurisdiction who, because of their presence in that area, make use of services or facilities provided by the Council.

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

“**municipal service**” means service relating to the collection, transportation, and disposal of waste, including domestic waste, such quantity and type of general business waste and dailies, as the Council may determine, which is provided by the Council in accordance with Chapter 2 of these By-laws;

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

“**occupier**” in relation to any premises means any person who is in actual occupation of such premises and if no person is in actual occupation thereof, any person who whether as owner, lessee or otherwise has, for the time being, control of such premises and shall include a street trader who occupies a site for the purpose of such street trader's business;

“**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;

“**owner**” means the registered owner, lessee or occupier of premises, or the person in charge or control of any premises or part thereof or any person who obtains a benefit from the premises or who is entitled thereto;



**“person”** has a meaning assigned to it in the Interpretation Act 1957 (Act 33 of 1957), and includes an organ of state;

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

(a) any substance; or

(b) noise, odour, dust or heat, emitted from any activity, including the storage or treatment of any waste or substance, construction and the provision of any service, whether engaged in by any person or an organ of state;

if that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of a natural or managed ecosystem, or on material useful to person, or will have such an effect in the future;

**“premises”** means:

(a) any land without any buildings or other structures on it;

(b) any building or other structure and the land on which it is situated;

(c) any land which adjoins land referred to in paragraph (a) or (b) and any building or other structure on the adjoining land, if that land, building or structure is occupied or used in connection with any activity carried out on the premises referred to in paragraph (a) or (b); or

**“prescribed fee”** means a tariff for the services which the Council may set for the provision of municipal service to the local community, and includes a surcharge on such tariff;

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

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

(a) the verge of any such road, street or thoroughfare,

(b) any bridge 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;

**“recovery”** when used in relation to waste, means the controlled extraction of a material or the retrieval of energy from waste to produce a product;

**“recyclable waste”** means waste which has been separated from the waste stream, and set aside for purposes of recycling;

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

“**re-use**” means to utilise articles from the waste stream again for a similar or different purpose without changing the form or properties of the articles;

“**resident**”, in relation to the Council's jurisdiction, means a person who is ordinarily resident within that area;

“**route**” means the way or course taken in getting from a starting point to a destination during an event which takes the form of a race or procession;

“**SANS Code**” means the South African National Standard: 10228: The Identification and Classification of Dangerous Goods for Transport as amended from time to time;

“**scrap dealer**” means any person engaged in purchasing or collecting, storing and recycling of waste especially metal but does not include any person engaged solely in recycling metal cans, paper, cardboard or glass;

“**stadium**” has the meaning assigned to it in section 1 of the Safety At Sports and Recreational Events Act, 2010 (Act No 2 of 2010), as amended from time to time;

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

“**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 No. 32 of 2000);

“**tariff**” means the user charge for the provision of the Council services, determined and promulgated by the Council in a regulation made under Chapter 7 in terms of section 75 of the Local Government: Municipal Systems Act 32 of 2000;

“**The Constitution**” means The Constitution of South Africa, 1996

“**un-compactable waste**” means business waste or domestic waste which by virtue of its mass, shape, size or quantity, is inconvenient to remove in the routine door-to-door municipal service provided by the Council;

“**vector**” means a an organism such as a mosquito or tick that transmits disease-causing microorganisms from an infected person or animal to another

“**venue**” means a stadium, or any area or place where an event is hosted;

“**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;

“**verge**” means a verge as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996); as amended from time to time

“**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 in terms of the Waste Act by the Minister of Environmental Affairs by notice in the *Gazette*;

“**Waste Act**” means the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008);

“**waste disposal facility**” means any site or premises used for the accumulation of waste with the purpose of disposing of that waste at the site or premises;

“**waste handling facility**” means any facility on or in which waste is accepted, accumulated, handled, sorted, prior to its transfer for treatment, recycling, processing and disposal;

“**waste management activity**” has the same meaning assigned to it in section 1 of the Waste Act;

“**waste management hierarchy**” consists of options for waste management during the lifecycle of waste, arranged in descending order of priority:

- (a) waste avoidance and reduction,
- (b) re-use and recycling, recovery,
- (c) and treatment and disposal as the last resort.

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

“**waste stream**” means any type of waste, including domestic waste; general business waste, commercial business waste; and recyclable waste;

“**waste treatment facility**” means any site that is used to accumulate waste for the purposes of storage, recovery, treatment, reprocessing, or recycling of waste, excluding storage

## **2. Application of this By-law**

This By-law applies to all properties or premises within the area of jurisdiction of the Council.

## **3. Conflict with other by-laws**

In the event of any conflict between this By-law and any other by-law or any policy which waste water, the provisions of this By-law shall prevail.

## **2.4. Objectives**

- (1) The main objectives of these by-laws are to –
  - (a) give effect to the right contained in section 24 of the Constitution by regulating the collection, storage, disposal and other waste management activities of waste within the jurisdictional area of Ekurhuleni Metropolitan Municipality ;
  - (b) provide, in conjunction with any other applicable law, an effective legal and administrative framework, within which the Council can manage and regulate waste management activities;

- (c) ensure that waste is avoided, or where it cannot be altogether avoided, it is minimised, reused, recycled, recovered, and that the remainder thereof is treated and disposed of in an environmental sound manner;
- (d) promote and ensure an effective delivery of waste service; and
- (e) ensure a universal access to the municipal waste services.

(2) In pursuing the main objectives of these By-laws, the Council may in appropriate circumstances require any generator or holder of waste to take reasonable measures to ensure that the objectives in subsection (1) are given effect to.

(3) The measures referred to in subsection (2) which the Council may require a generator or holder of waste to take include:-

- (a) providing information to the Council for the purpose of facilitating effective waste management within its jurisdiction;
- (b) presenting proof to the Council that any activity which is required to be licensed or authorised in terms of any national or provincial law or these By-laws is so authorised; and
- (c) investigating, assessing and evaluating the impact that any activity, process or situation within the Council's jurisdiction has on the environment and presenting the findings to the Council.

### **3.5. General Duty of Care Enforcement of Environmental Management Principles**

(1) The Council must, when exercising any function within the Municipal Area which may affect the environment, give effect to the environmental management principles listed in section 2 of the National Environmental Management Act, 1998 (Act 107 of 1998). The principles shall apply throughout the Municipal Area to the actions of the Council that may significantly affect the environment and:

- (a) shall apply alongside all other appropriate and relevant considerations, including the Council's responsibility to respect, protect, promote and fulfil the social and economic rights in Chapter 2 of the Constitution and in particular the basic needs of categories of persons disadvantaged by unfair discrimination;
- (b) serve as the general framework within which environmental management and implementation plans must be formulated;
- (c) serve as guidelines by reference to which any decision in terms of this By-law or any statutory provision concerning the protection of the environment; and
- (d) guide the interpretation, administration and implementation of this By-law in relation to the protection or management of the environment;

~~(1)~~(2) The Council must ensure that environmental management must place people and their needs at the forefront of its concern, and serve their physical, psychological, developmental, cultural and social interests equitably and that development within the Municipal Area is socially, environmentally and economically sustainable;

~~(2)~~(3) Every person has a duty to manage any waste generated by his or her activities or the activities of those persons working under his or her direction in such a manner that the waste does not cause harm to human health or damage to the environment. In particular, the person must ensure that:

(a) waste generation is avoided and where such waste cannot be avoided, the toxicity and amounts of waste are minimised;

~~(b)~~ ~~(b)~~—waste is reduced, reused, recycled or recovered;

~~(c)~~ dispose of recyclable waste by-

(i) contracting with the Council where the waste generator will be charged at the Council's standard charge in terms of the Tariff By-law; or

(ii) where the Council does not provide such a service by contracting with an accredited service provider.

(c) where waste must be disposed of, the waste is treated and disposed of in an environmentally sound manner;

(d) the waste is managed in such a manner that it does not endanger human health or the environment or cause a nuisance through noise, odour or visual impacts.

~~(3)~~(4) Every person who is a generator or holder of waste must further:

(a) Investigate, assess and evaluate the impact that their activities, the process or a situation have 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 damage to the environment;

(c) cease, modify or control any act, process, situation or activity which causes damage to the environment;

(d) contain or prevent the movement of pollutants or other causes of damage to the environment;

(e) eliminate or mitigate any source of damage to the environment; or the effects of the damage to the environment.

## CHAPTER 2: THE MUNICIPAL SERVICE

### 4.6. Duty to Provide Access to the Municipal Service

(1) The Council has a duty to the local community to progressively ensure an efficient, affordable, economical and sustainable access to the municipal service.

(2) The duty referred to in subsection (1) is subject to—

- (a) the obligation of the members of the local community to pay the prescribed fee for the provision of the municipal service; which fee must be in accordance with any nationally prescribed norms and standards for rates and tariffs; and
  - (b) the right of the Council to differentiate between categories of users and geographical areas when setting service standards and levels of service for the provision of the municipal service.
- (3) The Council must take the following factors into account in ensuring access to the municipal service:
- (a) the waste management hierarchy;
  - (b) the need to use resources efficiently;
  - (c) the need for affordability;
  - (d) the requirements of operational efficiency;
  - (e) the requirements of equity; and
  - (f) the need to protect human health and the environment.

#### **5.7. Provision of the municipal service**

- (1) The Council must, as far as reasonably possible and subject to the provisions of these By-laws, provide for the collection of domestic waste, and such quantity of general business waste and dailies as the Council may determine from time to time, on a regular basis and at a cost to end users determined according to the Council's tariff's policy.
- (2) The Council shall subject to the provisions of section 9(2) of the Waste Act, be the exclusive provider of the municipal service for the collection, transportation and disposal of domestic waste within its jurisdiction and may appoint one or more service providers to carry out this function on its behalf.
- (3) In providing the municipal service the Council may determine:
  - (a) collection schedules;
  - (b) quantities of waste that will be collected;
  - (c) which premises require an increased frequency of the municipal service for reasons of health, safety and environmental protection;
  - (d) the maximum amount of waste that may be placed for collection without the provision of an additional service or payment of an additional prescribed fee;
  - (e) requirements for the provision of waste storage areas and access to such areas in respect of premises which are constructed or reconstructed after the commencement of these By-laws;
  - (f) waste streams that are unsuitable for collection by the Council and if waste is determined to be unsuitable for collection the owner of such waste must be informed of the process for its collection; and
  - (g) locations for placing approved receptacles for collection

#### **6.8. Provision and Replacement of Receptacles**

- (1) Where the Council has provided a receptacle no person may place a receptacle for collection of waste by the Council other than the one that has been provided by the Council.
- (2) An owner or occupier of premises in respect of which the Council has not provided a receptacle shall use a receptacle that has been approved by the Council until such time that the Council provides the concerned occupier or owner of premises with a receptacle, subject to the provisions of section 4(2)(b).
- (3) A receptacle provided by the Council in terms of subsection (1) above remains the property of the Council and may not be removed from its storage space except on the days which the waste is collected and for the purpose of the waste collection only.
- (4) The owner or occupier of premises in respect of which the Council has provided a receptacle shall be liable for its replacement costs in the event that such receptacle is lost or damaged; provided that the Council shall replace the receptacle that has been damaged by its employee or service provider while carrying out their duties

#### **7.9. Compacting of Waste**

- (1) The Council may, if the quantity of domestic waste generated on premises requires the daily removal of more than the equivalent of eight 240-litre bins and the major portion of such waste is compactable, require the generator of such waste to compact that portion of the waste that is compactable and place it in a wrapper.
- (2) An occupier of premises may, on his or her own, elect to compact any volume of waste as contemplated in subsection (1)
- (3) The capacity of the wrapper may not exceed 85 liters and contents of the wrapper may not exceed 35 kilograms
- (4) Waste wrapped in terms of this section shall be placed in an approved receptacle stored in a manner that prevents damage to the wrapper or any nuisance until it is collected.
- (5) The receptacle used in terms of subsection (4) shall be collected, emptied and returned to the premises by the Council at such intervals as it may consider necessary.

#### **8.10. Obligations of Generators of Domestic Waste, General Business Waste and Dailies**

- (1) Any person generating domestic waste, general business waste and dailies must place such waste, in an approved waste receptacle.
- (2) From the date of the notice contemplated in section 12 generators or holders of the categories of waste prescribed in the aforementioned notice must dispose of or treat the stipulated categories of recyclable waste in the manner prescribed in the notice.
- (3) 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.
- (4) The occupier or owner of premises must ensure that –
  - (a) no hot ash, unwrapped glass or other domestic waste, general business waste or dailies, which may cause damage to approved waste receptacles or which

may cause injury to the Council's employees while carrying out their duties in terms of these By-laws, is placed in an approved receptacle before suitable steps have been taken to avoid such damage or injury;

- (b) no material, including any liquid, which by reason of its mass or other characteristics is likely to render an approved waste receptacle unreasonably difficult for employees of the Council to handle or carry, is placed in an approved receptacle;
- (c) every approved waste receptacle on the premises is kept closed save when waste is being deposited in it or discharged from it, and every approved receptacle is kept in a clean and hygienic condition;
- (d) no approved waste receptacle delivered by the Council is used for any purpose other than the storage of domestic waste, general business waste or dailies and, in particular, that no fire is lit in such approved receptacle;
- (e) an approved waste receptacle is placed outside the entrance to the premises before a time specified by the Council and on a day of the week specified by the Council by written notice to the owner or occupier of the premises, except where, on written application to the Council, the Council has indicated in writing that it is satisfied that a person is physically infirm or otherwise incapable of complying with the notice;
- (f) an approved waste receptacle, placed in accordance with paragraph (e) is not damaged and is properly closed so as to prevent the dispersal of its contents; and
- (g) dailies are not placed in a receptacle or compactor where they are able to contaminate another waste stream.

(5) The owner or occupier of premises must provide space and any other facility considered necessary by the Council on the premises for the storage of approved waste receptacles.

(6) The space provided to store an approved waste receptacle, must:-

- (a) be in a position on the premises which will allow the storage of any approved waste receptacle without it being visible from a public road or public place;
- (b) if dailies are generated on premises: –
  - (i) be in a position which will allow the collection and removal of that waste by the Council's employees without hindrance; and
  - (ii) not be more than 20 meters from the entrance to the premises used for the collection of waste by the Council;
- (c) be so located as to permit convenient access to and egress from such space for the Council's waste collection vehicles;
- (d) comply with any further requirements imposed by the Council by written notice to the owner or occupier of the premises; and
- (e) be constructed in accordance with the requirements of any applicable legislation relating to buildings.



(7) The occupier of premises must place or cause any approved waste receptacle to be placed in the space provided in terms of subsection (5) and must at all times keep them there.

(8) Notwithstanding the provisions of subsection (6)-

(a) in the case of a building erected, or the building plans of which have been approved, prior to the commencement of these By-laws; or

(b) in the event of the Council being unable to collect and remove waste from the space provided in terms of subsection (5), the Council may, having regard to the avoidance of a nuisance and the convenience of collection of waste, indicate a position within or outside the premises concerned where approved waste receptacles must be placed for the collection and removal of waste and such receptacles must then be placed in that position at such times and for such period as the Council may require.

#### **9.11. Liability to pay for the municipal service**

- (1) The owner of premises is liable to pay to the Council the fee prescribed in schedule 3 for the provision of the municipal service in term, and is not entitled to exemption from, or reduction of the amount of such fee by reason of not making use, or of making a partial or limited use, of the municipal service.
- (2) A prescribed fee becomes due and payable on the due date for payment stipulated in the account.
- (3) Non-receipt of an account does not relieve the person concerned of the liability to pay a prescribed fee before or on the due date.

### **CHAPTER 3: WASTE MINIMISATION AND RECYCLING**

#### **10.12. Reduction, Re-use, Recycling and Recovery of Waste**

(1) Any person who is undertaking reduction, re-use, recycling or recovery of waste including scrap dealers, waste treatment facilities and formalised recycling groups must, before undertaking that activity, make sure that the activity is less harmful to the environment than the disposal of such waste.

#### **11.13. Registering with the Council and compliance with national and provincial laws**

- (1) Re-use, recycling or recovery of waste must be undertaken in a manner which complies with these By-laws, the Waste Act and any other applicable law.
- (2) No person may undertake to collect, transport, sort, store, re-use, recycle or recover waste with the intention of making profit including scrap dealers, waste treatment facilities and formalized recycling groups unless the undertaking is accredited in terms of Chapter 8 of these By-laws.

#### **12.14. Informal Recyclers**

- (1) No Informal recycler may sort-out and repackage items anywhere at a public place other than the places that has been designated by the Council for informal recycling; provided that such designated places shall be kept tidy and clean

- (2) Informal recyclers may not scatter the contents of the waste receptacles from which they retrieve items.

#### **13.15. Obligation to separate waste into recyclables and non-recyclables**

(1) The Council may prescribe by a notice published in the Gauteng *Provincial Gazette* that, from a prescribed date, areas, specified generators or holders of particular categories of waste must for the purpose of recycling, separate those categories of waste and must, store dispose of or treat the separated waste in the manner prescribed in the notice.

(2) In cases where the Council, service provider or the industry has provided separate receptacles for recyclable material no person may use other receptacles for recyclable materials.

#### **14.16. Storage, Collection, Treatment, Transportation, Disposal of Recyclable Waste**

(1) The owner or occupier of premises on which recyclable waste is generated and separately stored, must ensure that –

(a) until such time as such waste is collected by an accredited service provider from the premises on which it was generated or stored, the waste is placed in an approved waste receptacle, and in a secure location;

(b) the approved waste receptacle in which the waste is stored, is not kept in a public place except when so required for collection;

(c) the approved waste receptacle placed for collection is not damaged and is properly closed so as to prevent the dispersal of its contents;

(d) every approved waste receptacle on the premises is kept closed, save when waste is being deposited in it or discharged from it, and every approved receptacle is kept in a clean and hygienic condition;

(e) nuisances such as odour, visual impacts and breeding of vectors do not arise; and

(f) the waste is collected by an accredited service provider within a reasonable time after the generation thereof, but at least once per month.

(2) An accredited service provider must handle, treat or dispose of recyclable waste at a permitted waste handling, treatment or disposal facility.

### **CHAPTER 4: INTEGRATED WASTE MANAGEMENT PLANS AND MANAGEMENT OF CERTAIN TYPES OF WASTE**

#### **17. Preparation and reporting on the implementation of integrated waste management plans by certain generators or holders of waste**

(1) In addition to any other provisions in the By-laws regarding the preparation of integrated waste management plans, the Council may, by notice published in the Provincial Gazette, require present or future generators or holders of specified waste streams to prepare integrated waste management plans.

(2) A notice referred to in subsection (1) shall specify the prescribed form required for the integrated waste management plan and submission date for it.

(3) Any person who is required by the Council to prepare an integrated waste management plan may be required to review and update the plan and to submit an amended plan at intervals specified by the Council.

### **18. Contents of integrated waste management plans**

Any integrated waste management plan, required in terms of these By-laws, must include at least:-

- (a) an assessment of the quantity and type of waste that is or will be generated;
- (b) a description of the waste management services the generator will require;
- (c) the full details of the site/s or area/s where waste will be generated, stored, treated or disposed of;
- (d) a description of how the generator of the waste separates or intends to separate recyclable and non-recyclable material;
- (e) the waste minimisation and pollution prevention practices and plans of such waste generator;
- (f) the methods of disposal or treating such waste;
- (g) a reporting plan on the implementation of the integrated waste management plan;
- (h) details of the person responsible for the implementation of the integrated waste management plan; and
- (i) any further information that the Council may in writing require.

### **15.19. Storage, Collection, Composting and Disposal of Garden Waste; and management of un-compactable waste**

- (1) The owner or occupier of the premises on which garden waste is generated, may compost garden waste on the property, provided that such composting does not cause a nuisance or health risk.
- (2) The owner or occupier of the premises on which garden waste is generated and not composted, or on which un-compactable waste is generated must ensure that such waste is collected and disposed of within a reasonable time after the generation thereof.
- (3) A waste generator or an accredited service provider may remove organic waste and un-compactable waste dispose thereof in terms of section 23; provided that the garden waste shall be deposited at a garden waste handling facility.

### **16.20. Generation, Storage, Collection and Disposal of Building Waste**

- (1) Any site development plan submitted to the Council for approval must be submitted with a building waste management plan setting out the manner in which the building and other waste to be generated in the course of construction will be managed and no site development plan may be approved before the building waste management plan is approved.
- (2) A building waste management plan shall not be approved before a refundable deposit has been paid; and the provisions of section 19(3), (4), (5) (6) and (7) shall apply *mutatis mutandis*.
- (3) The owner or occupier of premises on which building waste is generated and person conducting an activity which causes such waste to be generated, must ensure that:-
  - (a) recyclable and non-recyclable waste is separated;

- (b) non-recyclable waste is treated or disposed of in an environmentally sound manner;
  - (c) until disposal, all building waste, together with the containers used for the storage, collection or disposal thereof, is kept on the premises on which the waste was generated;
  - (d) the premises on which the building waste is generated does not become unsightly or cause a nuisance as a result of accumulated building waste;
  - (e) any building waste which is blown off the premises is promptly retrieved;
  - (f) any instructions from the Council regarding the management and storage of building are adhered to; including construction of any structure.
- (4) No person may place building waste on a pavement or sidewalk unless he or she has obtained the Council's written consent and such waste is placed in a skip.
- (5) Every receptacle used for the storage or removal of building waste, must –
- (a) have a clearly marked name, address and telephone number of the person in control of such receptacle
  - (b) be fitted with reflecting chevrons or reflectors which must completely outline the front and the back thereof; and
  - (c) be covered at all times other than when actually receiving waste or being emptied of such waste so that no displacement of its contents can occur.
- (6) The owner or occupier of premises on which building waste is generated or a developer as contemplated in subsection(1) must ensure that the waste is collected, transported, disposed of or recycled by an accredited service provider within a reasonable time after its generation.
- (7) All building waste must be deposited of at an appropriately licenced waste disposal facility unless:-
- (a) the Council has given written consent for the building waste to be used for the purpose of land reclamation and all other authorizations required for this to have been obtained; or
  - (b) the building waste will be re-used or recycled by an accredited service provider;
  - (c) or the building waste will be treated at a licensed waste treatment facility.

**17.21. Hazardous Waste or Health Care Risk Waste**

(1) Any person carrying on an activity which generates hazardous or health care risk waste, must ensure that such waste generated on the premises is kept and stored thereon until it is collected by an accredited service provider from the premises.

Hazardous or health care risk waste stored on any premises, must be stored in such a manner that it does not become a nuisance or cause harm to human health or damage to the environment, and in accordance with the requirements of any applicable legislation.

Any person who stores hazardous or health care risk waste must at least take steps to ensure that -

- (a) the containers in which this waste is stored, are intact and not corroded or in any other way rendered unfit for the safe storage of this waste;
- (b) adequate measures are taken to prevent accidental spillage or leaking;

- (c) the waste cannot be blown or washed away;
- (d) nuisances such as odour, visual impacts and breeding of vectors do not arise;
- (e) pollution of the environment and harm to health are prevented;
- (f) the waste is sealed in an impervious container and suitable measures are in place to prevent tampering;
- (g) any waste items or substances are safe for handling, collection or disposal and are not harmful to persons when accessed by unauthorised persons or members of the public; and
- (h) the waste is collected by an accredited service provider within a reasonable time after the generation thereof.

#### **18.22. Collection and Disposal of Hazardous or Health Care Risk Waste**

- (1) Only an accredited service provider may transport hazardous and health care risk waste and must do so in accordance with the conditions of an accreditation permit issued to him or her under Chapter 8 as well as the requirements of any relevant SANS codes, in respect of the type of vehicle, the markings and manner of construction of such vehicle, procedures for safety and cleanliness, and documentation relating to the source, transportation and disposal of such waste, and subject to the requirements of any other legislation.
- (2) A person accredited to collect and dispose of hazardous or health care risk waste, must inform the Council at intervals stipulated in the accreditation permit issued under Chapter 7, of each removal of hazardous or health care risk waste, the date of such removal, the quantity of the waste removed, the composition of the waste removed and the waste disposal facility at which the waste has been disposed of.
- (3) Any person carrying on an activity which generates hazardous or health care risk waste must ensure that such waste is disposed of or treated at an appropriately licensed waste disposal facility or waste treatment facility. If such facility is a waste incineration facility then further steps must be taken to ensure that such facility has the necessary licence in terms of the National Environmental Management: Air Quality Act, 2004 (39 of 2004)
- (4) A person accredited to collect and dispose of hazardous or health care risk waste, must also ensure that such waste is disposed of or treated at an appropriately licensed waste disposal facility or waste treatment facility. If such facility is a waste incineration facility then further steps must be taken to ensure that such facility has the necessary licence in terms of the National Environmental Management: Air Quality Act, 2004 (39 of 2004)

#### **19.23. Industrial Waste**

- (1) Industries operating within the jurisdictional area of the Council must manage the impact of their production processes and products on the environment by adopting cleaner production methods.
- (2) The industries must, pursuant to subsection(1) and without derogating from the other provisions of these By-laws:-
  - (a) minimise waste that is generated during the production phase;
  - (b) use less resources during the production phase;

- (c) re-use and recycle waste and by-products;
- (d) design their products so that they release zero or minimal hazardous waste over their life cycle
- (e) design their products so as to generate minimal waste at the end of their life cycle

#### **20-24. Event Waste**

- (1) An organizer of an event or a venue owner must contract with an accredited service provider for the provision of waste management services at the event.
- (2) An organizer of an event or a venue owner is liable for the full cost of the collection, clean-up, recycling and disposal of waste generated by the event and must submit an event waste management plan to the Council for approval at least thirty days before the commencement of the event.
- (3) The organizer or venue owner will be required to pay a refundable deposit of an amount determined by the Council and sufficient to cover the costs of cleaning –up and disposing of the event waste after the event.
- (4) Such deposit shall be paid at least five days before the event and shall not bear interest
- (5) The event organizer or venue owner shall be refunded the deposit paid in terms of this section after the event and upon proof of full compliance with the approved waste management plan.
- (6) If the waste generated by event is not adequately managed the Council may take the necessary steps to manage the waste including arranging for the cleaning-up, collection, recycling and disposal of the event waste.
- (7) Costs incurred by the Council in terms of subsection (6) shall be recovered from the deposit paid by the organizer of the event or owner of the venue and the Council shall further be entitled to recover the deficit through other legal measures at its disposal

#### **21-25. Environmental Emergencies**

- (1) In the case of an environmental emergency the Council may call upon the owner or the occupier of the premises, the waste generator or the person who was responsible for the waste when the environmental emergency arose to manage the same within a stipulated time and to the satisfaction of the Council
- (2) The Council may arrange for the management of the emergency; including the clearing and cleaning of debris and pollution effects, transporting and disposing of the waste at a licenced waste disposal facility.
- (3) The Council may also arrange, manage and co-ordinate the rehabilitation and repair of any infrastructure, buildings, equipment or any natural environment.
- (4)** The costs incurred by the Council in relation to the management of the environmental emergency shall be for the account of the person responsible for the emergency in terms of subsection (1)

#### **26. Control of Emergency Incidents**

(1) In this section "incident" includes any incident or accident that –

- (a) has the potential to pollute the Council's water supply system or a water resource within the Metropolitan area; or
- (b) has, or is likely to have, a detrimental effect on the Council's water supply system or a water resource within the Metropolitan area.

(2) In this section, "responsible person" includes any person who -

- (a) is responsible for the incident;
- (b) owns the substance involved in the incident; or
- (c) was in control of the substance involved in the incident at the time of the incident.

(3) The responsible person or any member of the public with knowledge of the emergency incident must, as soon as reasonably practicable after obtaining knowledge of the incident, inform the Council thereof immediately and for the responsible person to take all reasonable measures to contain and minimise the effects of the pollution by undertaking clean up procedures and remedying the effects of the incident.

(4) If the responsible fails to take any reasonable measures or inadequate reasonable measures then the Council may arrange for the management of the emergency incident; including the clearing and cleaning of debris and pollution effects, transporting and disposing of the waste at a licenced waste disposal facility.

(5) The Council may also arrange, manage and co-ordinate the rehabilitation and repair of any infrastructure, buildings, equipment or any natural environment.

(6) The costs incurred by the Council in relation to the management of the emergency incident shall be for the account of the responsible person in terms of subsection (2)

## **CHAPTER 5: COLLECTION, TRANSPORTATION TREATMENT AND DISPOSAL OF WASTE**

### **22.27. Collection of Waste**

(1) Subject to the provisions of section 14(3), no person may collect waste for removal from premises unless such person is:-

- (a) a Council or municipal service provider; or
- (b) has been accredited in terms of Chapter 8 of these Bylaws and, where applicable, has obtained the applicable licence or authorization in terms of national or provincial law.

### **23.28. Transportation of Waste**

(1) No person may-

- (a) transport waste within the area of jurisdiction of the Council unless he or she is accredited in terms of these By-laws;

(b) operate a vehicle for the conveyance of waste upon a public road unless the vehicle has a body of an adequate size and construction for the type of waste being transported;

(c) fail to maintain a vehicle used for the conveyance of waste in a clean, sanitary and roadworthy condition at all times;

(d) fail to cover loose waste on an open vehicle with a tarpaulin or suitable net;

(e) cause or permit any waste being transported in or through the Council's jurisdiction to become detached, to leak or fall from a vehicle transporting it, except at a waste disposal facility; or

(f) transport waste in a manner that would cause nuisance or environmental pollution.

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

(3) Any person engaged in the transportation of waste must take all reasonable measures to prevent any spillage of waste or littering from a vehicle used to transport waste, and where waste is spilled, immediately clean-up the spilled waste.

(4)

#### **24.29. Disposal of Waste**

(1) Subject to the provisions of section 14(3), waste disposed of within the jurisdictional area of the Council may only be disposed of by an accredited service provider; and at a waste disposal facility licensed to accept such waste or recycled or treated at a licensed or permitted waste treatment facility.

(2) In disposing of waste, an accredited service provider must comply with the provisions of subsection (3) and with the provisions of any other law regulating the disposal of waste.

(3) The Council may, by a notice published in the Gauteng Provincial Gazette, direct that a category of waste be disposed of at a particular waste disposal facility or waste handling facility; where the Council has so directed no person may dispose of such waste at a waste disposal facility which is not, in terms of the notice, designated to receive the category of waste.

(4) No person may burn waste either in a public or private place, for the purpose of disposing of that waste.

(5) No person may incinerate waste either in a public or private place, except in an incinerator at a place where the relevant national or Gauteng provincial authorities permit such incineration in terms of a valid licence, or at a place designated by the Council for that purpose.

(6) A person may dispose of those forms of recyclable waste specified by the Council in a notice in terms of subsection(3) at a designated organic waste handling facility, but may do so only if all such waste is brought to the facility in a vehicle able to carry a maximum load of one ton or less.

(7) The disposal of waste at any waste disposal facility is, in addition to any condition imposed by the National Departments of Environmental or Water Affairs, subject to such



conditions as the Council may impose, including the hours of opening and closing, the nature of the waste which may be disposed of, the position in any such waste disposal facility in which the waste may be placed and any other matter which the Council considers necessary to ensure the environmentally sound management of waste.

(8) Every person who enters a waste disposal facility must :-

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

(9) No person may-

- (a) bring any liquor or intoxicating or narcotic substance onto a waste disposal facility or enter such facility under the influence of liquor or such substance;
- (b) enter a waste disposal facility for any purpose other than the disposal of waste in terms of these By-laws, unless authorised to do so by the person in charge of the waste disposal facility or the Council and then only at such times and subject to such conditions as the Council or such person may impose;
- (c) dispose of waste at a waste disposal facility where the disposal of the waste concerned is not permitted; or
- (d) light a fire on a waste disposal facility without the prior written consent of the person in charge of that facility.

(10) Any person who contravenes sub-subsection (c) is liable for all costs reasonably incurred by the Council in removing or otherwise dealing with the waste concerned.

(11) The person in charge of a waste disposal facility may at any time require a vehicle or a container on a vehicle brought into the waste disposal facility for the purposes of disposing of waste, to be weighed at a weighbridge.

(12) The person in charge of a waste disposal facility or an authorised official may, at a waste disposal facility, inspect the content and nature of waste to be disposed of or processed and may take samples and test any waste found on any vehicle to ascertain its composition.

(13) Any person contravening any preceding provision of this section, may be refused entry or instructed by the person in charge to leave a waste disposal facility and if such person fails or refuses to comply with such instruction, he or she may be removed from such facility by an authorised official.

### **25-30. Waste Handling Facilities and Waste Disposal Facilities**

(1) Waste Handling Facilities and Waste Disposal Facilities operating within the area of jurisdiction of the Council must be appropriately licensed by the provincial or national

authorities; and be accredited in terms of these By-laws.

(2)Waste management activities in facilities referred to in subsection (1) must be undertaken in compliance with the provisions of these By-laws, licensing conditions and any other applicable legislation.

## **CHAPTER 6: ACCUMULATING WASTE, LITTERING, DUMPING AND ABANDONED ARTICLES**

### **26.31. Accumulating Waste**

(1) Every owner and occupier of any premises must keep those premises clean and free from any waste which is likely to cause a nuisance, harm to human health or damage to the environment.

### **27.32. Duty to Provide Facilities for Litter**

(1) The Council or, in the case of privately owned premises the owner, must take reasonable steps to ensure that a sufficient number of approved receptacles is provided for the discarding of litter by the public on any premises to which the public has access.

(2)The Council or owner of privately owned premises must ensure that every receptacle provided in terms of subsection (1) is:-

- (a) maintained in good condition;
- (b) suitably weighted or anchored so that it cannot be inadvertently overturned;
- (c) constructed in such a manner as to ensure that it is weatherproof and animal proof;
- (d) of adequate size to ensure that all the waste likely to be generated on the premises is sufficiently provided for;
- (e) placed in a location convenient for the use by members of the public; and
- (f) emptied and cleansed periodically to ensure that no receptacle or its contents become a nuisance.

### **28.33. Prohibition of Littering**

(1) No person may –

- (a) cause litter;
- (b) sweep any waste into a gutter, onto a road reserve or onto any other public place;
- (c) disturb anything in, or remove anything from any receptacle which has been placed for the purposes of collecting litter in such a manner as to cause any of the contents of the receptacle to spill from it; or
- (d) allow any person under his or her control to do any of the acts referred to in paragraph (a), (b) or (c).

(2)The Council or owner of a private land must, within a reasonable time after litter has been discarded, dumped or left behind, remove such litter or cause it to be removed from the

premises to prevent litter from becoming nuisance.

#### **29-34. Prohibition of Dumping**

- (1) No person may dump waste
- (2) No person may deposit or permit the depositing of any waste, whether for gain or otherwise, upon any land or in any building of which he is the owner or occupier except if such deposit is made in accordance with the provisions of these By-laws.
- (3) Subject to any provision to the contrary in the By-law no person may leave anything under his control at a place where **such thing** has been brought with the intention of abandoning it.
- (4) Where a person has left **a thing or allowed a thing** to be left at a place which he or she is not the owner or occupier he or she shall be deemed to have contravened the provisions of subsection (2) until the contrary is proved.

#### **30-35. Duty to Prevent Land or Building from being used for Dumping**

- (1) The owner or occupier of any land or building must take reasonable measures to prevent such land or building from being used for dumping and to clean up all waste dumped on or at the land or building.
- (2) The measures required in terms of subsection (1) may include:
  - (a) fencing-off the land or building;
  - (b) erecting "no dumping" signs; and
  - (c) security measures to monitor and enforce anti-dumping measures on the land or building.
- (3) If any land or building is used for dumping and, in the reasonable opinion of the Council, the owner or occupier has failed to take reasonable measures to prevent dumping and to clean-up waste dumped on the property, the Council may direct the owner or occupier to fence-off the land or building and, or, to erect notices to prevent further dumping.
- (4) Should the owner or occupier of any land or building, fail to comply, with a directive under subsection (3), the Council or authorised official may take reasonable measures to prevent dumping on the property and may recover its costs incurred in that regard from the owner or occupier.

#### **31-36. Disposal of dumped or abandoned articles**

- (1) Any article, other than a motor vehicle deemed to have been abandoned as contemplated in regulation 320 of the National Road Traffic Regulations, 2000, made under the National Road Traffic Act, 1996, which, in the light of such factors as the place where it is found, the period it has been at such place and the nature and condition of such article, is reasonably considered by the Council as having been abandoned, may be removed and, subject to the provisions subsection (3), disposed of by the Council as it deems fit.
- (2) The Council may remove and, subject to the provisions of subsection (3), dispose of any article which is chained or fastened to any pole, parking meter or any other property of the Council as it deems fit.

(3) If an article contemplated in subsection (1) or (2) is, in the opinion of the Council, of significant financial value, the Council may not dispose of it unless it has published a notice in a newspaper circulated in the area where the article was found, describing the article, stating the Council's intention to dispose of it and inviting the owner, or person legally entitled thereto, to claim the article within thirty days of the date of publication of the notice and such article may only be disposed of if no valid claim is made during such period.

(4) The Council may recover any reasonable and necessary expenditure which it has incurred in disposing of an article contemplated in subsection (1) or (2) from the proceeds derived from disposing of the article.

## **CHAPTER 7: GENERAL PROVISIONS**

### **32-37. Establishment of a Waste Information System and Provision of Information**

(1) The Council must establish and maintain a waste information system to record and report on all waste management activities within its area of jurisdiction for the purposes of:

- (a) facilitating effective waste management within its jurisdiction;
- (b) gathering information and undertaking strategic planning regarding the delivery of the municipal service;
- (c) monitoring waste management activities within the municipal area
- (d) monitoring progress made on targets set by the Council
- (e) assessing waste minimisation within the Council's jurisdiction;
- (f) preparing the Council's integrated waste management plan;
- (g) fulfilling the Council's internal and external waste management reporting requirements; and
- (h) for any other purposes that the Council may deem fit.

(2) The Council may, by notice published in the *Gauteng Provincial Gazette* or in writing to any specific holder or generator of waste or any other person who undertakes a waste management activity within the Council's jurisdiction require the relevant persons to provide information in the prescribed form and within the prescribed period or at the prescribed intervals to the Council for the purposes of subsection (1)

### **33-38. Ownership of Waste**

(1) All refuse on premises controlled by the Council, including landfill sites, refuse transfer stations or mini disposal sites shall be the property of the Council; and no person who is not duly authorized by the Council shall remove or interfere therewith.

(2) Waste that is collected by the Council or service providers appointed by the Council shall become the property of the Council upon its collection.

(3) A person who has a ~~waste management~~ licence for a waste management activity and who is accredited in terms of these By-laws is the owner of all the waste that he or she handles

## CHAPTER 8: ACCREDITATION

### **34.39. Accreditation permit requirements**

- (1) Subject to the provisions of section 41, no person may provide a commercial service without a valid accreditation permit issued by the Council and; where applicable, without a relevant licence issued by the national or provincial authorities.
- (2) An accreditation permit issued under this Chapter :-
  - (a) is incapable of cession or assignment without the prior written consent of the Council;
  - (b) is valid only for the service and category of waste specified therein; and
  - (c) is valid for the period set out in the permit.

### **35.40. Accreditation permit applications**

- (1) An application for an accreditation permit to provide a commercial service must be -
  - (a) made in writing on a form prescribed by the Council and accompanied by the documentation specified in that form; and
  - (b) accompanied by the **prescribed fee**.
- (2) The Council may request an applicant to furnish it with any additional information before it considers the application.
- (3) A decision must, subject to the provisions of subsection (6), be made **within sixty days** of receipt of an application or additional information requested in terms of subsection (2); and the Council may decide to:-
  - (a) require the applicant to comply with such reasonable conditions as it may impose before it grants the application;
  - (b) issue a permit unconditionally or issue it subject to conditions; or
  - (c) refuse a permit.
- (4) A decision to issue or refuse a permit or to issue it subject to conditions, must be consistent with-
  - (a) the provisions of these By-laws;
  - (b) the national environmental management principles;
  - (c) the Waste Act;
  - (d) the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000);
  - (e) any other applicable legislation
- (5) Notwithstanding subsections (3) and (4), an accreditation application by a service provider who is licenced by the national or provincial authorities to undertake or conduct a waste management activity will, upon the applicant providing a copy of a valid waste management licence and any information reasonably required by the Council be granted.
- (6) **If the Council is unable to make a decision on an application within sixty days of receipt thereof or of receipt of additional information requested in terms of subsection (2), it must**

inform the applicant in writing that the period for consideration is extended and must inform the applicant of the date by which a decision will be made.

#### **36-41. Suspension and revocation of accreditation**

(1) An accreditation permit issued under this Chapter may be suspended or revoked by the Council on the grounds that the service provider –

- (a) is in breach of its waste management licence and the national or provincial authorities have suspended or revoked the licence;
- (b) has failed to comply with any provision of these By-laws;
- (c) has failed to comply with any provision of any national or provincial legislation which regulates the collection, transportation or disposal of waste;
- (d) has failed to comply with any accreditation condition contemplated in section 34(3); or
- (e) on any other ground which the Council considers relevant, which is fair and reasonable in the circumstances.

(2) An accreditation permit may only be suspended or revoked after –

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

(3) The Council must –

- (a) make a decision within fourteen days of receipt of the representations contemplated in subsection (2)(b), if any, or within fourteen days after the permit holder informed the Council that he or she does not wish to make representations, or within fourteen days of the expiry of the period referred to in subsection (2)(b), whichever date is the earliest; and
- (b) inform the permit holder of its decision in writing within seven days of making it.

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

#### **37-42. Terms and conditions for accreditation**

(1) When issuing an accreditation permit under this Chapter, the Council may, subject to the provisions of subsection (2), impose any valid condition in furthering the Council's waste management policy.

(2) An accreditation permit issued under this Chapter must—

- (a) specify the permit period for which the permit is valid and the procedure for renewing the permit ;

- (b) specify the nature of the commercial service the permit holder may provide;
- (c) specify every category of waste in respect of which the permit holder may provide a waste management service;
- (d) contain a requirement that the permit holder must comply with, and ensure compliance by his or her employees, agents and sub-contractors, with these By-laws and applicable national and provincial legislation; and
- (e) require the permit holder to keep monthly written records on a form prescribed by the Council of the quantities of each category of waste stored, collected, transported, treated or processed during the permit period.

Comment [MT1]: Report ?

#### **38.43. Renewal of accreditation permits**

- (1) An accreditation permit holder who wishes to renew his or her accreditation must at least ninety days prior to the expiry of the existing permit:-
  - (a) apply on the prescribed form to renew the permit concerned; and
  - (b) pay the prescribed renewal fee.
- (2) Before considering an application made in terms of subsection (1), the Council may require the applicant to furnish such information as it may require.
- (3) The Council must consider and grant or reject an accreditation permit renewal application within sixty days of the receipt of the application subject to the provisions of subsection(4)
- (4) If the Council fails to consider and grant or reject an accreditation permit renewal application within sixty days, it must inform the service provider in writing that the period for consideration is extended and must inform the service provider of the date by which a decision will be made.
- (5) An accreditation permit in respect of which application for renewal has been made in terms of subsection (1) remains valid until a final decision has been made in respect of that renewal application.

#### **39.44. Display of an accreditation permit**

- (1) Upon issuing an accreditation permit under this Chapter, the Council must issue to the applicant a permit sticker for each waste transporting vehicle or waste treatment facility.
- (2) The permit stickers must vary in colour for each category of waste and commercial service provided.
- (3) An accreditation permit holder must affix such permit sticker to each vehicle to be utilised to collect and transport waste and prominently display the permit sticker or permit at all premises utilized for providing the commercial service; .

#### **40.45. Prohibited conduct**

- (1) No permit holder may –
  - (a) intentionally or negligently operate in contravention of any condition of the accreditation permit;

(b) intentionally or negligently fail or refuse to give information to an authorised official when required to do so in terms of these By-laws, or give false or misleading information;

(c) intentionally or negligently fail to take all reasonable steps to prevent a contravention of these By-laws by any act or omission of his or her employee acting in the course and scope of his or her duties, or

(d) collect or transport any waste except in a properly constructed, watertight vehicle or in a suitable container that prevents spillage of waste; the suitability of the vehicle is dependent on the waste stream collected or transported, as specified in the National Road Traffic Act, 1996.

#### **41.46. Exemptions**

(1) The Council may, having regard to the main objects of these By-laws contemplated in section 2 and its integrated waste management plan, by notice in the Gauteng Provincial Gazette, exempt any type of commercial service from any provision of this Chapter to the extent and subject to the terms specified in such notice.

#### **42.47. Transitional provisions**

(1) Any person who is, at the commencement of these By-laws, lawfully providing a commercial service for which an accreditation permit is required under this Chapter, may continue providing such service provided that within ninety days of such commencement, or such extended period as Council may prescribe, such person makes application for an accreditation permit in terms of section 34, failing which such person's right to provide such service shall lapse

(2) If an application is submitted in terms of subsection (1), the applicant may continue to provide the commercial service in respect of which the application has been made until a final decision has been taken in respect of that application.

### **CHAPTER 9: ENFORCEMENT OF THESE BY-LAWS AND AUTHORISED OFFICIALS**

#### **43.48. Enforcement**

(1) The Municipality must appoint suitably qualified authorised officials for the enforcement of these By-laws.

(2) An authorised official must, upon appointment, be issued with an identification document by the Council which must state the name and designation of that official, and include a photograph of the official.

(3) An authorised official, exercising his powers or performing his functions and duties for the purposes of these By-laws, must present an identification document issued in terms of subsection (2) on demand by a member of the local community.

#### **44.49. Powers of authorised officials**

(1) In addition to the powers, functions and duties an authorised official has by virtue of his appointment as such, an authorised official may, with the consent of the owner or person in charge of a vehicle or other mode of conveyance, search that vehicle or other mode of conveyance found in any place.



- (2) If consent is not obtained in terms of subsection (1), a vehicle or other mode of conveyance may be searched or stopped and searched, only pursuant to a valid written authorisation issued by a magistrate
- (3) (a) If, in the opinion of an authorised official, any search of a vehicle or other mode of conveyance in terms of subsection (1) or (2), gives rise to the reasonable apprehension that the presence of waste in or on such vehicle or other mode of conveyance is a serious and immediate danger to human health or to the environment, the authorised official must instruct the owner or person in control of the vehicle concerned in writing to take the steps specified in that instruction which, in the opinion of such official, are necessary to mitigate harm to human health or damage to the environment.
- (b) In the event of a refusal or failure to comply with an instruction given in terms of paragraph (a), the authorised official may report the matter to the Ekurhuleni Metropolitan Police Department with a view to seizure and impoundment of the vehicle concerned in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).
- (4) An authorised official may, subject to Section 101 of the Systems Act, enter any premises if a magistrate has issued a written authorization to enter premises, for the purposes of ascertaining compliance with -
- (a) these By-laws; or
- (b) a term or condition of an accreditation permit, issued in terms of Chapter 8 of these By-laws.
- (5) The authorised official who has a written authorisation referred to in subsection (4) is allowed to:
- (a) inspect any document that a person is required to maintain in terms of any law or that may be relevant to any work or inspection;
- (b) copy any document referred to in paragraph (a) or if necessary, remove the document in order to make the copy;
- (c) take samples of any substance that is relevant to the work or inspection; and
- (d) take photos or make audio-visual recordings of anything or any person, process, action or condition on or regarding any premises.

#### **45.50. Powers to question**

- (1) For the purposes of administering, implementing and enforcing the provisions of these By-laws, an authorised official may, require a permit holder or any other person to disclose information, either orally or in writing, and either alone or in the presence of a witnesses, on any matter to which these By-laws relate and require that the disclosure be made on oath or affirmation.
- (2) An authorised official may for the purposes of subsection (1) be accompanied by an interpreter and any other person reasonably required to assist that official.

#### **46.51. Observance of human rights**

- (1) The exercise by an authorised official of any powers under these By-laws should be undertaken with strict regard to decency; orderliness; and each person's human rights

including the right to dignity, freedom, security and privacy.

#### **47-52. Supervision of holders of accreditation permits**

(1) An authorised official may inspect every workplace of an accreditation permit holder at least twice a year; provided that should the authorised official find an accredited service provider contravening the provisions of these By-laws he or she may inspect the workplace in question at more regular intervals until the contravention ceases.

(2) An accreditation permit holder must allow an authorised official access for the purposes of an inspection in terms of subsection (1).

(3) If an authorised officer is, after an inspection in terms of subsection (1), of the opinion that an accreditation permit holder is complying with these By-laws, he must issue an accreditation permit holder with a certificate confirming such compliance, in which it must be stated –

- (a) the name and residential and postal address of the accreditation permit holder;
- (b) the address of the premises inspected;
- (c) the time, date and scope of the inspection; and
- (d) any remarks which, in the opinion of an authorised official, may be relevant.

(4) If an accreditation permit holder fails to obtain a certificate confirming compliance at three consecutive inspections, an authorised official may recommend that the Council review the accreditation permit concerned and, should there be reasonable grounds, the Council may suspend or revoke the accreditation permit in terms of section 35.

(5) An authorised official must keep a register recording each inspection which he or she has undertaken, in terms of subsection (1).

#### **48-53. Compliance notices**

(1) If, in the opinion of an authorised official, a person is contravening any provision of these By-laws, that official may in writing issue a compliance notice and serve it on the person concerned.

(2) An authorised official who is satisfied that the person served with the compliance notice has complied with the terms of the notice may issue a compliance certificate to that effect.

(3) A compliance notice remains in force until an authorised official has issued a compliance certificate in respect of that notice or an order envisaged in section 48(5) is made.

(4) A compliance notice must set out:

- (a) the provision that has not been complied with;
- (b) details of the nature and extent of non-compliance;
- (c) any steps that are required to be taken and the period within which those steps must be taken; and

**Comment [MT2]:** What about in instances where there could be irreparable harm to the environment, three consecutive inspections may be too much.

(d) any penalty that may be imposed in terms of these By-laws if the steps mentioned in sub-subsection(a) are not taken.

(6) If a person fails to comply with a compliance notice issued in terms of subsection (1) the authorised official may take the necessary steps to clean-up or remove waste, or to rehabilitate the premises, place, or the affected environment.

(7) The Council may recover reasonable costs it has incurred in terms of subsection (5) from the concerned person.

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

(a) a person who committed, or who directly or indirectly permitted the contravention

(b) the generator of waste

(c) the owner of the premises or premises where the contravention took place

(d) the person in control of the premises or premises where the contravention took place

(e) the person who had the right to use the premises or premises when the contravention took place

**Comment [MT3]:** The handler of the waste or the transporter of the waste must also be considered.

#### **49.54. Representations**

(1) Any person on whom a compliance notice as contemplated in section 47(1) or a directive contemplated in section 29(3) was served, may make representations to the Council by submitting a sworn statement or affirmation to the Council within a period set out in the notice/directive or within twenty one days of the service of the compliance notice or the directive.

(2) Representations not lodged within a period set out in the notice/directive or twenty one days of the service thereof must not be considered, except if the person concerned has shown good cause for condonation and the Council condones the late lodging of the representations.

(3) The Council must consider the representations and any response thereto by an authorised official or any other person if any, and may conduct any further investigation to verify the relevant facts.

(4) If the Council conducts a further investigation the results of such investigation must be made available to the person who made the representations so that such person may be given an opportunity to respond thereto; and the Council must consider such response.

(5) After the Council, is satisfied that *inter alia* the requirements of subsection (3) and (4) have been satisfied, it must make an order in writing and serve a copy of thereof on the person concerned setting out its findings.

(6) Such an order may –

(a) confirm, alter or set aside in whole or in part, the directive or compliance notice concerned; and

(b) must, if applicable, specify the period within which the person concerned must

comply with the order.

(7) If a person makes representations in terms of subsection (1) any requirement to comply with the directive or compliance notice concerned is suspended until an order is made in terms of this subsection unless, in the opinion of the Council, an environmental emergency has been caused in which event and without derogating from any right that the person concerned may have or acquire to any relief of whatever nature, the person concerned must immediately comply with such directive or notice on being instructed, orally or in writing, by the Council to do so.

(8) If a person, fails to comply with such an order in terms of subsection (5), the Council may itself cause the environmental emergency to be stopped, reversed or abated and recover any reasonable and necessary expenditure which it has incurred or may incur in taking those steps from that person.

#### **50.55. Exemptions (repetition as already listed on section 41 above)**

- (1) Any person may apply for exemption from the provisions of these By-laws to the Council in writing.
- (2) An application in terms of subsection (1) above must state reasons why the exemption is sought.
- (3) The Council may, at its sole discretion, grant a temporary exemption in writing from provisions of these By-laws, provided that the Council is satisfied that granting the exemption will not significantly prejudice the objectives of these By-laws; and that any exemption is granted subject to conditions that promote the attainment of the objectives of these By-laws where appropriate.
- (4) The Council may not grant an exemption under subsection (1) until it has:
  - (a) taken measures to ensure that all persons whose rights may be significantly detrimentally affected by the granting of the exemption, including but not limited to adjacent premises owners or occupiers, are aware of the application for exemption and how to obtain a copy of it;
  - (b) proof that all interested and affected parties were provided with a reasonable opportunity to raise their comments or objections to the application; and
  - (c) duly considered and taken into account any objections raised.
- (5) The Council may review any exemptions granted in terms of this section from time to time and withdraw any exemption on good grounds shown.

#### **51.56. Appeals**

- (1) Any person may appeal against a decision taken by an authorised person under these By-laws by giving written notice of the appeal in accordance with the provisions of section 62 of the Municipal System Act 32 of 2000.

#### **52.57. Service of Documents and Process**

- (1) Where any notice or other document is required by these By-laws to be served on any person other than for the purpose of criminal proceedings-

Comment [MT4]: Concerns ?

(a) it must be served on him personally, failing which if it be served on any member of his household, 16 years or older, who signs for the receipt of such notice at his place of residence or business; and

(b) if sent by registered post to the person's address constitutes service in terms of section 7 of The Interpretation Act, 1957 (Act 33 of 1957).

**Comment [MT5]:** Domicilium address? Must be applicable as well.

## CHAPTER 10: OFFENCES AND PENALTIES

### 53-58. Offences

- (1) A person is guilty of an offence if he or she-
  - (a) contravenes or fails to comply with any provisions of these By-laws;
  - (b) fails to comply with any notice, directive or order issued or condition imposed in terms of or for the purposes of these By-laws;
  - (c) fails to comply with any lawful instruction given in terms or for the purposes of these By-laws; or
  - (d) obstructs or hinders any authorised official or employee of the Council in the execution of his or her duties under these By-laws.
- (2) A person who is guilty of an offence in terms of subsection (1) is, on conviction, liable for a penalty prescribed for the offence in Schedule 1.

**Comment [c6]:** Please attach schedule 1

**Comment [VL7]:** Will discuss at next meeting

### 54-59. Repeal of Laws

- (1) Ekurhuleni Metropolitan Municipality Solid Waste Management By-laws in force before the commencement of these By-laws are hereby repealed.

### 55-60. Short Title and Commencement

- (1) This bylaw shall be called the Ekurhuleni Metropolitan Waste Management Bylaw, 20...; and shall come into operation on a date fixed by the Executive Mayor of the Ekurhuleni Metropolitan Municipality by proclamation in the *Government Gazette*.
- (2) Different dates may be so fixed in respect of different provisions of these By-laws.

**Comment [VL8]:** done

**Comment [c9]:** Complete the statement