

uMHLATHUZE MUNICIPALITY SOLID WASTE BY-LAWS

The Council of the uMhlathuze Municipality has in terms of section 156 of the Constitution, 1996 (Act No 108 of 1996), and the National Environmental Management Act, Act 59 of 2008, read in conjunction with section 11 of the Municipal Systems Act, 2000 (Act No 32 of 2000), made the following By-laws:

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CHAPTER 1

INTERPRETATION

1. **Definitions.** In these By-laws, unless the context indicates otherwise –

“affected person” means a person who has been issued, or who is being issued, with an enforcement notice;

“approved”, in the context of bins, bin liners, wrappers and containers means approved by the council for the collection and storage of waste;

“Bill of Rights” means chapter 2 of the Constitution of the Republic of South Africa, 1996;

“bin” means an approved receptacle used for the temporary storage of waste in terms of these by-laws and which has a capacity of less than 1 cubic metre;

“bin liner” means an approved loose plastic or other suitable material liner for use in the interior of a bin;

“bulky waste” means business waste or domestic waste which, by virtue of its mass, shape, size or quantity cannot be conveniently stored in a bin or container;

“business waste” means waste, generated on premises other than premises used for residential or worship purposes, but does not include hazardous waste, building waste, industrial waste, garden waste, health care risk waste, bulky waste and special industrial waste;

“building waste” means all waste generated 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;

“container” means an approved receptacle used for the temporary storage of waste in terms of these by-laws and which has a capacity of more than 1 cubic metre;

“council” means the uMhlathuze Municipality or its successors in title, and includes the council of that municipality or its executive committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the executive committee has delegated any powers and duties with regard to these By-laws;

“council services” means a municipal service relating to the collection of waste provided by the council in accordance with these By-laws;

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

“Director: Community Services and Health” means a person appointed by the council in that capacity or a person acting in that capacity and includes officials of the council who under such person’s control exercises any function, duty or authority in terms of these By-laws;

“disposal site” means any place or facility designated by the council to receive waste for final disposal;

“domestic waste” means waste generated on premises used solely for residential purposes and purposes of public worship including halls or other buildings used for worship purposes, but does not include building waste, bulky waste, garden waste or special domestic waste;

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

“enforcement notice” means a notice issued by the council under section 22 of these By-laws;

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

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

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

“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, bulky waste, building waste or any waste generated as a result of garden service activities;

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

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

“hazardous waste” means waste containing or contaminated by poison, a corrosive agent, a flammable substance having an open flash-point of less than 90 degrees Celsius, an explosive, radioactive material, a chemical or any other waste that has, in the opinion of the council, the potential even in low concentrations to have a significant adverse effect on public health or the environment because of its inherent toxicological, chemical and physical characteristics;

“industrial waste” means waste generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities, the activities of workshops and the activities of railway marshalling yards, but does not include building waste, business waste, special industrial waste, hazardous waste, health care risk waste or domestic waste;

“law enforcement officer” means a law enforcement officer appointed by the Council as a peace officer in terms of Section 334 of the Criminal Procedure Act ,1977 (Act 51 of 1977);

“litter” means any object or matter which is discarded by a person in any place except in an approved receptacle provided for that purpose or at a waste disposal facility (or disposal site if preferred) or a waste handling facility controlled by the council and **“littering”** shall have a corresponding meaning;

“health care risk waste” means all hazardous waste generated at health care facilities such as hospitals, clinics, laboratories, medical research institutions, dental and medical practitioners and veterinarians;

“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” includes any person in actual occupation of land or premises without regard to the title under which he or she occupies, and, in the case of premises sub-divided and let to lodgers or various tenants, includes the person receiving the rent payable to the lodgers or tenants whether for his or her own account or as agent for any person entitled thereto or interested therein;

“owner” includes any person that has title to any premises or land or any person receiving the rent or profits of any land or premises from any tenant or occupier thereof, or who would receive such rents or profits if such land or premises were let, whether for his or her own account or as agent for any person entitled thereto or interested therein: Provided that the “owner” in respect of premises on the Sectional Title Register opened in terms of section 12 of the Sectional Titles Act, 1986, (Act 95 of 1986) means the body corporate, as defined in that Act, in relation to such premises;

“person” means a natural or juristic person and includes a firm or any association of persons and also licensees;

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

(a) substances; or

- (b) noise, odours, dust or heat, emitted from any activity, including the storage or treatment of waste or substances, construction and the provision of services, whether engaged in by any person or an organ of the state,

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

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

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

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

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

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

“recyclable waste” means waste which in the opinion of the council is suitable for re-use, reclamation or recycling and which has been set aside for that purpose;

“special domestic waste” means waste generated on premises used solely for residential purposes and which cannot by virtue of its mass, shape, size or quantity be conveniently stored in a bin;

“special industrial waste” means waste, consisting of a liquid, sludge or solid substance, resulting from a manufacturing process, industrial treatment or the pre-treatment for disposal purposes of any industrial or mining liquid waste, which in terms of the council’s drainage or sanitation By-laws may not be discharged into a drain or sewer;

“tariff” means the appropriate charge for the provision of council services, determined and promulgated by the council;

“waste” means any matter or material, whether solid, liquid or containing a gaseous component, or a by-product or residue of any process or activity, which has been discarded, abandoned, accumulated or stored and which is no longer deemed useful by any person;

“waste disposal facility” means any facility or site designated by the council to receive waste for disposal and includes garden waste handling facilities;

“waste handling facility” means any facility that accepts, accumulates, handles, recycles, sorts, stores or treats waste prior to its transfer for incineration or final disposal;

“wrapper” means a plastic or other suitable or approved material covering that totally encloses bales or slugs of compacted waste.

CHAPTER 2

BUSINESS AND DOMESTIC WASTE

2. The provision of council services

- (1) The council shall, subject to the provisions of these By-laws, provide council services for the collection of business and domestic waste at a cost to the owner of the premises determined in accordance with the prescribed tariff promulgated by the council.
- (2) The occupier of premises on which business or domestic waste is generated is obliged to make use of the council services for the collection of such waste, except where the occupier –
 - (a) has obtained the written consent from the council to sell or otherwise dispose of any swill, corrugated cardboard, paper, glass or other material for recycling or consumption; or
 - (b) utilises such domestic waste as may be suitable for making compost, provided that the compost remains on the premises and such composting does not cause a nuisance.
- (3) The Council may deliver containers to premises if, having regard to:
 - (a) the quantity of waste generated on the premises concerned;
 - (b) the suitability of such waste for storage in containers; and
 - (c) the accessibility and adequacy of the space provided by the owner or occupier of the premises in terms of section 3(2) to the waste collection vehicles,it considers containers more suitable than bins for the storage of the waste.
- (4) Where a container has been delivered to premises in terms of subsection (3), the occupier of such premises must, 24 hours before the container is likely to be filled to capacity, inform the council thereof.
- (5) The council may upon receipt of written notification from the occupier of the premises to the effect that the generation of business or domestic waste has ceased, decreased, or increased in volume, remove so many of the bins or containers or deliver as many additional bins or containers as it may consider necessary, subject to the provisions of section 26.
- (6) Where bins or containers have been provided by Council in the residential and business areas, such bins or containers shall become the property of the owner. Replacement of such bins shall be for account of the owner except if damaged as a result of Council’s activities.
- (7) The council may –

- (a) determine the quantities of waste that will be collected;
 - (b) determine which premises require council services more frequently than the regular collection service for reasons of health, safety and environmental protection;
 - (c) determine the maximum amount of waste that may be placed for collection without the provision of an additional service or the imposition of an additional tariff; and
 - (d) specify requirements for the provision of waste storage areas and access to such areas.
- (8) The council may determine or designate –
- (a) collection schedules;
 - (b) locations for placing approved bins or containers for collection;
 - (c) which types of waste generated by the occupier of any premises are recyclable waste and determine the conditions for their storage and collection; and
 - (d) which types of waste are unsuitable for collection.
- (9) The council must notify all generators of domestic and business waste of any decisions taken in terms of subsections (7) and (8) in writing.

3. Placing of bins and containers

- (1) The occupier of the premises must provide a waste handling facility and any other facilities deemed necessary by the council on the premises, including space for the storage of the bins or containers delivered by the council.
- (2) The space provided in terms of subsection (1) shall -
 - (a) in the case of bins, be in such a position on the premises as will allow the storage thereof without it being visible from a street or public place;
 - (b) be so located as to permit convenient access to and egress from such area by council's waste collection vehicles;
 - (c) not be more than 10 metres from the entrance to the premises;
 - (d) be sufficient to house all waste, including the materials and any containers used in the sorting and storage of the waste contemplated in sections 2(2)(a) and 6(6), provided that this requirement does not apply in the case of buildings erected, or buildings the building plans of which have been approved prior to the coming into operation of these By-laws.
- (3) The occupier of premises must place or cause the bins or containers delivered to be placed in the space provided in terms of subsection (1) and must at all times keep them there, save that -
 - (a) in the case of buildings erected, or buildings the building plans of which have been approved prior to the coming into operation of these By-laws; or

- (b) in the event of the council, in its opinion, being unable to collect and remove waste from the space provided in terms of subsection (1);

the council may, having regard to the avoidance of nuisance and the convenience of collection of waste, indicate a position within or outside the premises where the bins or containers must be placed for the collection and removal of such waste and such bins and containers must then be placed in such position at such times and for such period at the council may require.

- (4) Where, in the opinion of the council, the collection of waste from any premises is likely to cause damage to the premises or to the council's property, or injury to the council employees or to any other person, the council may require the owner or occupier of the premises to indemnify the council in writing against any such damage or injury or against any claims arising thereunder.

4. Use of bin liners for domestic waste and business waste

- (1) In order to facilitate the collection of waste, the council may require that bin liners be used in bins for the storage of domestic waste or business waste and where so required, the occupier may not place any waste in such bin without using a bin liner approved by the council.
- (2) Whenever required by the council as referred to in subsection (1), the occupier of premises must place the full bin liner, undamaged and properly closed so as to prevent the dispersal of its contents -
 - (a) outside the entrance to the premises before a time on the day of the week specified by the council, except where, on written application to the council, the council has indicated in writing that it is satisfied that such person is physically infirm or otherwise incapable of complying with this subsection; or
 - (b) in areas where council only collects waste from bins or containers, such liner must be placed inside the bin or container in the space as contemplated in section 3.

5. Use and care of bins and containers

- (1) The occupier of premises to which bins or containers have been delivered by the council must ensure that -
 - (a) all the domestic or business waste generated on the premises is placed and kept in the bins or containers for collection by the council, except where an exemption was granted in accordance with the provisions of section 2(2)(a) or (b);
 - (b) no hot ash, unwrapped glass or other business or domestic waste which may cause damage to bins, bin liners or containers, or which may cause injury to the council's employees while performing their duties in terms of these By-laws, is placed in bins or containers before suitable steps have been taken to avoid such damage or injury;

- (c) no material, including any liquid, which by reason of its mass or other characteristics is likely to render the bins, bin liners or containers unreasonably difficult for the council's employees to handle or carry, is placed in the bins, bin liners or containers;
 - (d) every bin or container on the premises is kept closed save when waste is being deposited therein or discharged from it, and every bin or container is kept in a clean and hygienic condition;
 - (e) the bin or container is not used for any purpose other than the storage of domestic waste and business waste;
 - (f) no fire is lit in a bin or container.
 - (g) Bins or containers must be placed on the pavement of the premises no later than 07:00 am on the day of collection.
- (2) The owner of premises to which bins or containers were delivered will be liable to the council for the loss thereof and for all damage caused thereto except for such loss or damage as may have been caused by the employees of the council.

6. Compaction of business waste

- (1) The council may require the occupier who generates business waste to compact that portion of the waste that is compactable. Such a requirement may be imposed where in the opinion of the council the quantity of business waste generated on the premises requires the daily removal of more than the equivalent of six 240-litre bins and where, in the opinion of the council, the major portion of such waste is compactable. The occupier of premises may also elect to compact any volume of such waste as is compactable.
- (2) The occupier must place compacted waste into an approved container or wrapper, provided that -
 - (a) the capacity of the wrapper does not exceed 85 litres and the mass of the wrapper and contents do not exceed 20 kilograms; and
 - (b) after the waste has been compacted and put into a wrapper, it is placed in the approved bin or container and is stored so as to prevent damage to the wrapper or any nuisance arising until collected.
- (3) The occupier of the relevant premises must supply the containers or wrappers mentioned in subsection (2).
- (4) The council may collect, empty and return any container or wrapper used in terms of subsection (2) at such intervals as it may deem necessary.
- (5) The occupier of the premises must prepare the container or wrapper used in terms of subsection (2) for collection by the council and reconnect it to the compaction equipment forthwith after its return by the council to the premises.
- (6) Notwithstanding the provisions of this section, the occupier of premises who has obtained the council's prior written consent may sell or otherwise dispose of any swill, corrugated cardboard, paper, glass or other material for recycling in a manufacturing process or, in the case of swill, for consumption.

- (7) “Approved” for the purposes of subsection (2) means approved by the council, regard being had to the fitness of the container or wrapper for its purpose, and also to the reasonable requirements of the particular instance having regard to human health, safety of the environment, and the storage, collection and disposal of the waste.

CHAPTER 3

INDUSTRIAL WASTE

7. The provision of council services

- (1) The council shall, subject to the provisions of these By-laws and in particular the provisions of section 8, provide for the collection of industrial waste at a cost to the owner of the premises determined in accordance with the prescribed tariff promulgated by the council.
- (2) The provisions of chapter 2, read with the necessary changes, must apply to industrial waste, save that the provisions of section 6 only apply to industrial waste where the occupier of the premises elects to compact such waste.

8. Collection of industrial waste

- (1) Notwithstanding the provisions of section 7, the owner or occupier of premises generating industrial waste, may use the commercial services of a private contractor to collect such waste, provided that such contractor complies with the provisions of these by-laws and any other applicable legislation and condition imposed by council.
- (2) In addition to subsection (1), the contractor must ensure that –
- (a) the equipment which it intends using is suitable for the purpose;
 - (b) the industrial waste is contained in transit;
 - (c) the industrial waste is deposited at a waste disposal facility designated by the council for that purpose;
 - (d) the service rendered is in respect of industrial waste only.
- (3) The owner or occupier of premises on which industrial waste is generated and who makes use of the services of a contractor in terms of subsection (1), must ensure that such waste is collected by the contractor within a reasonable time after the generation thereof.

9. Storage of industrial waste

- (1) The owner or occupier of premises on which industrial waste is generated must ensure that -
- (a) subject to the provisions of section 2(2)(a) read with the necessary changes, such waste is stored in the bins or containers delivered by the council for such purpose, if such waste can by its nature conveniently be stored in the bins or containers or, if the council’s service is not made use of, in receptacles approved by the council, until such time as such waste is collected from the premises;
 - (b) no dust or other nuisance is caused by any industrial waste generated on the premises; and

- (c) no bin, container or other approved receptacle used for the storage of industrial waste is kept in or on a public place except as may be required for collection.

CHAPTER 4

GARDEN, SPECIAL DOMESTIC AND BULKY WASTE

10.A Storage, collection and disposal of garden, special domestic and bulky waste

- (1) The owner or occupier of the premises on which garden waste is generated may compost garden waste on the property, provided such composting does not cause a nuisance.
- (2) The occupier of the premises on which garden waste is generated and not composted or on which special domestic or bulky waste is generated must ensure that such waste is collected and disposed of within a reasonable time after the generation thereof.
- (3) Any person may collect and dispose of garden, special domestic and bulky waste, provided that once such waste has been collected from the premises on which it was generated, it is disposed at a waste disposal facility designated by the council for that purpose in accordance with the provisions of section 16.
- (4) At the written request of the occupier of premises the council may, in its sole discretion, deliver a bin or container for the purpose of storing garden waste in addition to any bin or container delivered to the premises for the storage of domestic or business waste. The provisions of chapter 2, read with the necessary changes, must apply to a bin or container delivered in terms of this subsection and which is to be used for the storage of garden waste.
- (5) Where the council has delivered a bin or container in terms of subsection (4) the council must, in the course of providing council services, remove such garden waste that has been placed in a bin or container delivered by the council to the premises, against payment of the tariff prescribed by the council.
- (6) At the request of the occupier of premises and against payment of the tariff charge prescribed by the council, the council may collect any garden waste not placed in a bin or container as contemplated in subsection (4), special domestic, and bulky waste from premises, provided that the council is able to do so with its waste removal equipment.

10.B Collection, sorting and storage of recyclable materials for financial gain

- (1) Any person interested in carrying out recycling shall first register with Council, declaring the type of materials and quantities to be handled and the manner of disposal.
- (2) It shall be the responsibility of the recycler to acquire an operational site for such undertaking.
- (3) Recyclers shall submit to Council quantities of waste collected and quantities of recyclable materials retrieved from such waste on a monthly basis.
- (4) Recyclers will be required to attend recyclers' forums where issues pertaining to waste shall be discussed.

- (5) Council officials have the right to conduct inspections of any recycling premises at any reasonable time.
- (6) Council reserved the right to withdraw a recycling permit should the recycler fail to comply within a reasonable period.

CHAPTER 5

BUILDING WASTE

11. Generation and storage of building waste

- (1) The owner or occupier of premises on which building waste is to be generated must ensure that –
 - (a) until disposal, all building waste, together with the containers used for the storage, collection or disposal thereof, is kept on the premises on which the waste was generated;
 - (b) the premises on which the building waste is generated does not become unsightly or cause a nuisance as a result of accumulated building waste;
 - (c) any building waste which is blown off the premises is promptly retrieved; and
 - (d) pursuant to any instructions from the council, any structure necessary to contain the building waste is constructed.
- (2) The owner or occupier of premises may apply in writing to the council for written consent to place an approved receptacle for the storage and collection of building waste in the road reserve for the period of such consent. Any consent given by the council in terms of this subsection may be subject to such conditions as the council may consider necessary.
- (3) The owner or occupier must ensure that every approved receptacle authorised in terms of subsection (2) and used for the storage of building waste –
 - (a) has clearly marked on it the name, address and telephone number of the person in control of such receptacle;
 - (b) is fitted with reflecting chevrons or reflectors which completely outline the front and the back thereof; and
 - (c) is covered at all times other than when actually receiving or being emptied of such waste so that no displacement of its contents can occur.

12. Collection and disposal of building waste

- (1) The owner or occupier of premises on which building waste is generated must ensure that the waste is collected and disposed of within a reasonable time after the generation thereof, but in any event not later than 21 days after the completion or ceasing, temporary or otherwise, of the activities generating the building waste on the premises.
- (2) All building waste must be disposed of at a site designated by the council for that purpose, unless the council has given written consent for the building waste to be used for the purpose of land reclamation or for recycling.

CHAPTER 6

SPECIAL INDUSTRIAL, HAZARDOUS, HEALTH CARE RISK WASTE

13. Generation of special industrial, hazardous and health care risk waste

- (1) No person may perform any activity which may cause special industrial, hazardous or health care risk waste to be generated, without notifying the council prior to the generation of such waste of the composition of such waste, the estimated quantity to be generated, the method of storage, the proposed duration of storage, the manner in which it will be collected and disposed, and the identity of the person removing such waste: Provided that where such waste is being generated as a result of activities which commenced prior to the commencement of these By-laws, the generator must notify the council within 3 months of the commencement of these By-laws.
- (2) The person referred to in subsection (1) must with immediate effect notify the council in writing of any changes occurring with respect to the generation, composition, quantity, method and duration of storage and location of disposal of the special industrial, hazardous or medical waste.
- (3) If so required by the council, the notification referred to in subsection (1) and (2) must be substantiated by an analysis of the composition of such waste certified by an appropriately qualified industrial chemist.
- (4) Subject to the provisions of section 192 of the Local Authorities Ordinance of Natal, Ordinance 25 of 1974 as amended, or any other applicable empowering legislation, the council or any person duly authorised by the council may enter premises at any reasonable time to ascertain whether special industrial, hazardous or health care risk waste is generated on such premises and may take samples and test any waste found on the premises to ascertain its composition.

14. Storage of special industrial, hazardous and health care risk waste

- (1) Any person carrying on an activity which may cause special industrial, hazardous or health care risk waste must ensure that the special industrial, hazardous or health care risk waste generated on the premises is kept and stored thereon until it is collected from the premises.
- (2) The person referred to in subsection (1) must ensure that the special industrial, hazardous or health care risk waste stored on premises is stored in such a manner that it does not become a nuisance or cause harm to human health or cause damage to the environment.
- (3) Hazardous or health care risk waste must be stored in a container and in a storage area, approved by council for a period not exceeding any maximum period to be stipulated by the council before collection.
- (4) If any person contravenes the provisions of subsections (2) or (3) the council may, subject to the provisions of section 22, issue a notice on that person to remove the waste within 48 hours. If the person fails to comply with the notice, the council may, subject to the provisions of section 22, itself or through any person remove the waste and recover any reasonable expenditure from the person who failed to act as directed.

15. Collection and disposal of special industrial, hazardous and health care risk waste

- (1) A person may not collect and transport special industrial, hazardous or health care risk waste from the premises on which it was generated without the written consent of the council, and must do so in accordance with the requirements of the council 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.
- (2) The person referred to in subsection (1) must inform the council at those intervals as the council may stipulate, about the removal of special industrial, hazardous or health care risk waste, the identity of the remover, the date of such removal, the quantity and the composition of the special industrial, hazardous or health care risk waste removed and the facility at which the waste has been or will be disposed.
- (3) The person referred to in subsection (1) must dispose of special industrial, hazardous and health care risk waste at a site designated by the council for that purpose, provided that health care risk waste must be disposed of by incineration.
- (4) If any person contravenes the provisions of this section, the council may, subject to the provisions of section 22, issue a notice to that person to dispose of the waste in a manner directed by the council within 48 hours. If the person fails to comply with the notice, the council may, subject to the provisions of section 22, itself or through any person dispose of the waste and recover any reasonable expenditure from the person who failed to act as directed.

CHAPTER 7

DISPOSAL OF WASTE AT WASTE DISPOSAL SITES

16. Disposal of waste at waste disposal sites

- (1) The council may direct that a category of waste be disposed of at a particular disposal site. Waste generated within the area of jurisdiction of the council must be disposed of at a waste disposal site that has been permitted to accept and dispose of such waste.
- (2) No person may burn waste either in a public or private place other than at a place designated by the council for that purpose or at an authorised incinerator operated by a person licensed to do so.
- (3) The disposal of waste at any waste disposal facility may be subject to such conditions as the council may from time to time specify, including the hours of opening and closing, the nature of the waste that may be disposed of, the position in any such waste disposal facility in which the waste may be placed and any other matters which the council considers necessary to ensure the environmentally sound management of waste.
- (4) Every person who enters a waste disposal facility, must –
 - (a) enter the waste disposal facility at an authorised access point;
 - (b) on request, provide the council with any information regarding the composition of the waste;
 - (c) on request of the council, present a vehicle or a container on a vehicle that has entered the waste disposal facility for the purpose of disposing waste to be weighed at a weigh bridge or in any manner required by the council;

- (d) ensure that any vehicle or a container on a vehicle used for the transportation of waste that has entered the waste disposal facility have its correct tare legibly displayed on both sides;
 - (e) follow all instructions of the council in regard to access to the actual disposal point, the place where and the manner in which the waste should be deposited; and
 - (f) pay the relevant tariff charge in respect of the waste deposited or comply with any prior arrangements made with the council with regard to payment of charges.
- (7) No person may –
- (a) bring any liquor or intoxicating or narcotic substance onto a waste disposal facility, or enter such facility in an intoxicated state;
 - (b) enter a waste disposal facility for any purpose other than the disposal of waste in terms of these By-laws, unless authorised by the council and then only at such times and on such conditions as the council may from time to time determine;
 - (c) dispose of waste at a waste disposal facility which is not permitted for such waste; and
 - (d) light any fire upon or near any waste disposal facility.
- (8) Any person who contravenes subsection 7(c) will, in addition to any liability imposed in terms of section 27, be liable for all reasonable costs incurred by the council in removing or otherwise dealing with waste improperly disposed of at a waste disposal facility.
- (9) The council may refuse to accept waste at a waste disposal facility which may, in the opinion of the council, have an adverse effect on human health or well-being or on the environment, and the council may impose any conditions it may consider necessary for the acceptance of such waste.
- (10) The council may inspect the content and nature of waste to be disposed or processed at a waste disposal facility and may take samples and test any waste found on any vehicle or in any container on a vehicle that has entered a waste disposal facility for the purpose of disposing of waste to ascertain its composition.
- (11) The council may refuse entry to, or remove from a waste disposal site controlled by council any person who contravenes any of the provisions of this section.
- (12) All waste disposed at a waste disposal site controlled by council will become the property of the council and no person may remove or interfere with such waste unless authorised by the council to do so.

CHAPTER 8

LITTERING, DUMPING AND ABANDONED ARTICLES

17. Duty to provide facilities for litter

- (1) The council, or the owner in the case of privately owned premises, must take reasonable steps to ensure that sufficient approved receptacles are provided for the discarding of litter by the public in any place to which the public has access.
- (2) The council, or the owner of privately owned premises, must ensure that all approved receptacles installed on the premises for the collection of litter are –
 - (a) maintained in good condition;
 - (b) suitably weighted and anchored so that they cannot be inadvertently overturned;
 - (c) constructed in such a manner as to ensure that they are weatherproof and animal proof;
 - (d) of suitable size to contain all litter likely to be generated on the premises and by the users thereof;
 - (e) placed in locations convenient for the use by users or occupants of the premises to discourage littering or the unhealthy accumulation of waste; and
 - (f) emptied and cleansed periodically or when full. The emptying and cleansing of approved receptacles must be sufficiently frequent as to ensure that no receptacle or its contents may become a nuisance or provide reasonable grounds for complaint.
- (3) In any place where an approved receptacle has been placed for the depositing of litter, the council may put up notices regarding littering.

18. 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 placed for the purpose of collecting litter in such a manner as to cause the contents of the receptacle to spill or fall onto the ground around it; and
 - (d) allow any person under his or her control to do any of the acts contemplated in subsections (a), (b) and (c) above. For purposes of this subsection, a person will be presumed to have allowed the acts of persons under his or her control unless the contrary is proved.
- (2) Notwithstanding the provisions of subsection (1), the council, or the owner in the case of privately owned premises to which the public has access, must within a reasonable time after any litter has been discarded, dumped or left behind, remove such litter or cause it to be removed. For the purposes of this subsection, a reasonable time may mean that period of time before the litter becomes a nuisance or cause for complaint.

19. Prohibition of dumping and abandoning articles

- (1) No person may, without authorisation from the council, deposit or permit the depositing of any waste, whether for gain or reward or otherwise, upon any premises or in any building of which that person is the owner or occupier, except where such deposits are made in accordance with the provisions of these By-laws.
- (2) No person may dump waste.
- (3) Subject to any provisions to the contrary contained in these By-laws, no person may leave any article or allow any article under his or her control to be left at a place with the intention of abandoning it.
- (4) Where a person has left an article or allowed an article to be left at a place of which he or she is not the owner or occupier, the person will be presumed to have contravened the provisions of subsection (2) until the contrary is proved.
- (5) Any article, other than a motor vehicle deemed to have been abandoned in terms of section 114 of the Road Traffic Act, 1989 (Act No. 29 of 1989), which, in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition of such article, is reasonably regarded by the council as having been abandoned, may be removed and disposed of by the council as it may deem fit.
- (6) Where any article has been removed and disposed by the council in terms of subsection (5), the person responsible will be liable to pay the council the tariff charge in respect of such removal and disposal.
- (7) For the purpose of subsection (6) the person responsible will be –
 - (a) the last owner of the article before it was removed by the council or the person who was entitled to be in possession of the article at the time when it was abandoned or left in the place from where it was so removed, unless that person can prove that he or she was not involved in the abandonment or did not know of its being abandoned or left in that place; or
 - (b) the person by whom it was left in the place from where it was removed as aforesaid; or
 - (c) the person who knowingly permitted the placing of the article in the place aforesaid.

CHAPTER 9

ADMINISTRATIVE ENFORCEMENT PROVISIONS

20. Appointment of authorised officials

The council may appoint authorised officials to perform and exercise any function, duty or power specified in these By-laws and in terms of any other law or legislation on behalf of the council, in particular in terms of section 101 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000).

21. Powers of authorised officials

- (1) In addition to the powers an authorised official has as a representative of the council under section 101 of the Local Government: Municipal Systems Act 2000 (Act 32 of 2000) or any other legislation, an authorised official may –
 - (a) to the extent that access to premises does not fall within the scope of section 101 of the Local Government: Municipal Systems Act 2000 (Act 32 of 2000) or any other legislation, if he or she has reasonable grounds to suspect that there is an environmental emergency and that any delay in obtaining a search warrant will cause serious harm to human health or damage to the environment, without a warrant, enter and search any premises associated with the emergency: Provided that the entry and search be conducted in conformity with the requirements of the Bill of Rights and any other law;
 - (b) inspect any vehicle or mode of conveyance with the consent of the owner or person in charge of it, and where such consent is not obtained, may stop and inspect a vehicle or other mode of conveyance pursuant to a warrant being issued.
- (2) Where, in the opinion of the authorised official, any inspection of a vehicle as contemplated in these By-laws, gives rise to the reasonable apprehension that the presence of waste in or on that vehicle is a serious and immediate danger to human health or to the environment, the authorised official may seize that vehicle in order to prevent, or where that is impossible, to mitigate harm to human health or damage to the environment.
- (3) In the event of the seizure of any vehicle under subsection (2), the council must –
 - (a) forthwith take steps to dispose of such waste in order to prevent, and where that is impossible, to mitigate, harm to human health or damage to the environment; and
 - (b) return the said vehicle, within 48 hours after disposing of such waste, to the control of the licensee or person from whose possession or control it was taken.
- (4) In order to monitor or enforce compliance with these By-laws, the authorised official may, subject to the provisions of the Bill of Rights and any other law, require a licensee or any person to disclose information, either orally or in writing, on any matter to which these By-laws relate.

22. Enforcement notices

- (1) If, in the opinion of the authorised official, a person –
 - (a) is causing a nuisance, harm to human health or damage to the environment; or
 - (b) does not comply with any obligations prescribed in these By-laws,the authorised official may issue or cause to be issued on that person an enforcement notice in terms of this section.
- (2) An enforcement notice issued under this section must state –

- (a) the name and residential and postal address, if these be known, of the affected person;
 - (b) where -
 - (i) the notice is issued pursuant to circumstances envisaged in subsection 1(a), the nature of the nuisance, harm to human health or damage to the environment that the affected person is causing or is likely to cause, as well as the steps required to forestall or remedy the nuisance, harm to human health or damage to the environment in sufficient detail to enable compliance with the enforcement notice; and
 - (iii) the notice is issued pursuant to circumstances envisaged in subsection 1(b), the obligations the affected person is not complying with, as well as the steps required to comply with the obligations of the owner or occupier in sufficient detail to enable compliance with the enforcement notice.
 - (c) that the affected person must not later than the number of days indicated in the notice and calculated from the day on which the notice is issued, take steps to comply with the notice;
 - (d) that failure to comply with the requirements of the enforcement notice within the period contemplated in paragraph (c) may result in criminal and/or civil liability; and
 - (e) that such written representations may be made to the council in accordance with section 24, or a designated committee or internal functionary to which powers under these By-laws have been delegated, at a specified place, within 21 days of receipt of the notice.
- (3) If an affected person fails to comply with an enforcement notice, the council or anyone authorised by the council, may perform the steps required in the enforcement notice, provided they do so in conformity with the requirements of the Bill of Rights.
- (4) Where the council incurs any expenditure as a result of performing such steps, the council may recover any reasonable expenditure from the person who failed to act as directed.

23. Complaints

Any person may lodge a complaint with an authorised official, or through any other channel established by the council, that any other person is causing harm to human health or damage to the environment by contravening the provisions of these By-laws, in which event the authorised official, unless he or she has reasonable grounds to believe that the complaint is frivolous or unreasonable, must investigate the complaint and must, if he or she is satisfied that such harm or damage is or is likely to be caused, issue an enforcement notice.

24. Representations

- (1) Any affected person may make representations to the council, or a designated committee or internal functionary of the council to which the council has delegated its powers, in the manner specified in the enforcement notice.

- (2) Representations must be made by submitting a sworn statement or affirmation to the council, designated committee or internal functionary within 21 calendar days of the service of the notice.
- (3) Any representation not lodged within 21 calendar days will not be considered, save where the affected person has shown good cause and the council, the designated committee or internal functionary condones the late lodging of the representation.
- (4) The council, or designated committee or internal functionary must duly consider the representations and any response thereto by an authorised official or any other person, if there be such a response, and may, if deemed necessary, conduct any further investigations to verify the facts. If the council, or designated committee or internal functionary should conduct any such further investigations, the results of such investigation must be made available to the affected person, who must be given an opportunity to make a further response if he or she so wishes, and the council, or designated committee or internal functionary must also consider such further response.
- (5) After the council, or designated committee or internal functionary, is satisfied that the requirements of subsection (4) have been satisfied, the council, or designated committee or internal functionary, must make a finding and/or order in writing and give a copy thereof to the affected person. Such an order may –
 - (a) confirm, alter or set aside in whole or in part, an enforcement notice; and
 - (b) must specify the period within which the affected person must comply with any order made by it.
- (6) If the enforcement notice is confirmed, in whole or in part, or is altered but not set aside, the council, or designated committee or internal functionary, must inform the affected person that he or she may elect to be tried in court, or must discharge the obligations set out in the enforcement notice.
- (7) If the affected person elects to be tried in court, he or she must notify the council, or designated committee or internal functionary of his or her election within 7 calendar days. On receipt of such notification by the council, or designated committee or internal functionary, the authorised official must within 10 calendar days take all necessary steps, as envisaged in the Criminal Procedure Act, 1977 (Act No 51 of 1977), to secure the attendance and prosecution of the accused person, in which event the enforcement notice or infringement notice must be cancelled.
- (8) If the affected person does not elect to be tried in court, he or she must discharge his or her obligations under the enforcement notice within the prescribed manner and time.
- (9) If the affected person lodges a representation or elects to be tried in court, any requirement in terms of section 22(2) of these By-laws requiring compliance with an enforcement notice, may be suspended unless, in the opinion of the council, the affected person has caused an environmental emergency in which event and without derogation from any right that the affected person may have, or may in future have, under any law, to any relief of whatever nature, the affected person must immediately comply with any such requirement on being ordered by the council to do so.

- (10) If there is an environmental emergency and if the affected person, despite receiving a lawful order made in terms of subsection (9), fails to comply with such an order, the council may itself cause the environmental emergency to be stopped, reversed or abated, in which event the council may institute civil proceedings for the recovery of any reasonable and necessary expenditure which it has incurred or may incur in effecting such a stoppage, reversal or abatement.

CHAPTER 10

GENERAL PROVISIONS

25. Tariff charges

The council may determine and promulgate prescribed tariff charges for the provision of council services in terms of these By-laws.

26. Liability to pay for council services

- (1) Unless otherwise provided in these By-laws, the owner of any premises to which any service has been provided by the council in terms of these By-laws, is liable to pay the prescribed tariff charge to the council. Such person is not entitled to an exemption from the liability to pay the prescribed tariff charges by reason of his or her not making use of, or of making partial or limited use of the council services.
- (2) Where the council has amended the provision of any services to any person in terms of these By-laws, whether by reducing or by providing additional services, the council may amend its tariff accordingly. The person referred to in subsection (1) will be liable for the amended tariff from the date of commencement of the amended services. For purposes of this subsection the council records will serve as proof of the date of commencement of the amended services, until the contrary is proved.
- (3) Notwithstanding the provisions of subsection (1) and (2), the owner of unoccupied premises will be liable for the minimum tariff equal to the cost of 1 x 240L bin prescribed by the council for the particular area.
- (4) The prescribed tariff charges become due and payable monthly on the same date as the general assessment rate levied.
- (5) Where there is no bin on the premises, the owner or occupier of the premises shall be liable for payment for the bin according to the tariff of charges of Council, which bin shall be delivered to the premises by Council.

27. Offences and penalties

- (1) Any person who –
- (a) contravenes or fails to comply with any provisions of these By-laws; or
 - (b) fails to comply with any notice issued in terms of these By-laws; or
 - (c) fails to comply with any lawful instruction given in terms of these By-laws; or
 - (d) obstructs or hinders any employee of the council in the execution of his or her duties under these By-laws,

is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months, or to both such fine and imprisonment.

28. Repeal of By-laws

- (1) The Solid Waste By-laws of the erstwhile Richards Bay Municipalities , published under Provincial Notice 360 of 20 July 1978, as amended, as well as Chapter III of the Public Health By-laws of the erstwhile Empangeni Municipality, published under Provincial Notice 218 of 1960, are hereby repealed,: Provided that such repeal does not affect the continued validity of charges determined by the council under those By-laws.
- (2) Any reference -
 - (a) in these By-laws to a charge determined by the council include a charge determined by the council under the By-laws repealed by subsection (1), until the council's determination of charges under these By-laws comes into operation; and
 - (b) in determination of charges made under the By-laws so repealed, to a provision in those By-laws, must be deemed to be a reference to the corresponding provision in these By-laws.
- (3) Anything done under the provisions of the By-laws repealed by subsection (1) must be deemed to have been done under the corresponding provision of these By-laws and such repeal does not affect the validity of any approval, authority, waiver or other act which at the commencement of these By-laws is valid under the By-laws so repealed.

29. Date of commencement

These By-laws commence on the date of publication in the KwaZulu-Natal Provincial Gazette.