MADIBENG LOCAL MUNICIPALITY

Draft reviewed Waste Management By-law

INTEGRATED WASTE MANAGEMENT BY-LAW

In terms of Section 156(2) of the Constitution, 1996 Madibeng Municipality hereby enacts as follows:

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CHAPTER 1 GENERAL PROVISIONS

1. Definitions and interpretation

In this By-law words used in the masculine gender include the feminine, the singular includes the plural and vice versa; a natural person includes a juristic person and vice versa and unless the context otherwise indicates -

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

"**Applicable charge**" means the rate, charge, tariff, flat rate, subsidy or any other cost prescribed by the Municipality from time to time;

"**Approved**" in the context of bins, bin liners, waste bags, containers, receptacles and wrappers, means approved by the Municipality or a licensed service provider for the collection and storage of waste;

*__Approved container__" means a container approved for the temporary storage of domestic or business waste until removed by the municipality or an approved service provider;

"**Approved business waste container**" means a container with a storage capacity of 240 litre, a container with a storage capacity of 770 litre or any other approved container prescribed by the Municipality;

"**Approved domestic waste container**" means a container with a storage capacity of 240 litres or any other approved container prescribed by the Municipality;

"**Authorised official**" means a waste management officer or other person in the employ of the Municipality, authorised by the Municipality for the purposes of this By-law, or if the Municipality has appointed a municipal service provider to perform municipal services, an employee of such service provider, authorised by it as an authorised official in terms of this By-law and acting within the scope of the powers, functions and duties assigned to that municipal service provider by the Municipality in terms of section 81(2) of the Local Government Municipal Systems Act, Act 32 of 2000 or another applicable law;

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

"**Bulky waste**" means waste which can be classified as domestic or business waste but which, by virtue of its mass, shape, size or quantity, cannot easily be accumulated in or removed from an approved container;

"**Business waste**" means waste, other than household and business hazardous waste, health care waste, health care risk waste, building waste, industrial waste, garden waste, bulky waste, special waste, e-Waste and special industrial waste generated on premises that are used wholly or mainly for commercial, retail, wholesale, entertainment or government administration purposes and at residential premises where any one or more of these activities are being conducted;

"**Collection**" means the act of collecting domestic or business waste at the place of generation or storage by the Municipality or a licensed service provider and removal has a similar meaning; 'commercial services" means any waste management service, relating or connected to accumulating, collecting, managing, recycling, sorting, storing, treating, transporting, disposing, buying or selling of waste or any other manner of handling waste excluding municipal services rendered by the Municipality;

"**Constitution**" means the Constitution of the Republic of South Africa, 1996 (Act no. 108 of 1996);

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

"**Damage to the environment**" means any pollution, degradation or harm to the environment whether visible or not;

"**DEFF**" means the national Department of Environment, Forestry and Fisheries;

"**Development**" means a high density residential development with common property or facilities and which is managed by a home owners' association, body corporate or other managing body;

"**DREAD**" means the provincial Department of Rural, Environment and Agricultural Development;

"**Disposal coupon**" means a coupon approved by and purchasable from the Municipality and entitling the holder thereof to use it to dispose waste of a prescribed volume and type at a waste disposal facility or a waste handling facility;

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

"**Domestic waste**" means waste that emanates from premises used wholly or mainly for—

(a) residential purposes, such as a dwelling house, flat, boarding house, old age home or group

(b) development; educational, sport or recreational purposes; purposes of public worship, including a hall or other building used for religious purposes, and includes domestic health care waste but excludes household and business hazardous waste, business waste, building waste, garden waste, bulky waste, special waste, e-Waste, liquid matter or night soil;

"**Dump**" means placing waste anywhere other than in an approved container or a place designated as a waste handling facility or waste disposal facility by the Municipality;

"**DWA**" means the National Department of Water Affairs;

"**ECA**" means the Environment Conservation Act, 1989 (Act 73 of 1989) and any regulations made in terms thereof, or any superseding legislation;

"**EIA**" means an environmental impact assessment as contemplated in NEMA, and/or the ECA and the EIA Regulations as published in Government Notice R 1183 on 5 September 1997, as amended from time to time;

"**Enforcement notice**" means any notice issued by an authorised official under this By-law which instructs the person to whom it is issued to comply with the terms of the notice, and includes a

compliance notice contemplated in section 59; "environment" means the individual parts and total sum of all elements, properties, conditions and the like making up the surroundings within which living organisms exist and any part or combination of the interrelationships among and between them;

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

"**EPR**" means extended producer responsibility;

"**Event waste**" means waste that originates from the activities related to an event that is held in the municipal area;

"**E-Waste**" means all types of WEEE and its parts that have been discarded by the owner as waste without the intention of re-use, i.e. almost any household or home business item with circuitry or electrical components with power or battery supply which contain materials that, if mishandled, can be hazardous to human health and the environment but also materials that are valuable and scarce. Should hazardous components be removed from e-Waste it could be classified as general waste but should e-Waste still contain any parts or components that can be hazardous to human health or the environment, it is considered to be hazardous waste to which thresholds of listed activities for the storage and treatment limits of hazardous waste apply.

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

"**Garden waste**" means organic waste which emanates from domestic gardening activities, including grass cuttings, leaves, plants, flowers, branches, tree stumps and other similar waste;

"**General waste**" means waste that does not pose an immediate hazard or threat to health or to the environment, and includes domestic waste; business waste; building waste; inert waste, garden waste; or any waste classified as non-hazardous waste in terms of NEM: WA;

"**Hazardous chemical substance**" means any toxic, harmful, corrosive, irritant or asphyxiant gas, or a mixture of such substances for which an occupational exposure limit is prescribed;

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

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

"**Health care risk waste**" means all hazardous waste generated at any health care facility such as a frail care centre, hospital, clinic, laboratory, medical research institution, dental or medical practitioner or veterinarian including but not limited to infectious waste, pathological waste, sharp waste, pharmaceutical waste, genotoxic waste, chemical waste, pressurized container waste, waste with heavy metals, radio-active waste,

or any waste that has been in contact with blood, bodily fluids or tissues from humans or infected animals from veterinary practices;

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

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

"**Household and business hazardous waste"** means post-consumer waste which qualifies as hazardous waste when discarded. It includes household chemicals and other substances for which the owner no longer has a use, such as consumer products sold for home care, personal care, automotive care, pest control and other purposes. These products exhibit many of the same dangerous characteristics as fully regulated hazardous waste due to their potential for reactivity, ignitability, corrosivity, toxicity, or persistence. Examples include drain cleaners, oil paint, motor oil, antifreeze, fuel, poisons, pesticides, herbicides and rodenticides, fluorescent lamps, lamp ballasts, smoke detectors, medical waste, some types of cleaning chemicals, and all types of e-waste which contains hazardous parts or components;

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

"**Inert waste**" means waste that— 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 does not impact negatively on the environment, because of its pollutant content and because the toxicity of its leachate is insignificant;

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

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

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

"**Level of service**" means the frequency of municipal service and the type of service point;

"**Licensed service provider**" means a person or entity approved by and registered with the Municipality and having obtained a licence to collect and transport specified types of waste in the municipal area;

"**Litter**" means any object or matter which is discarded by a person in any place except in an approved container provided for that purpose or at a waste disposal facility or a waste handling facility; "minimisation" means the steps are taken by the Municipality, residents, businesses and industries to avoid and reduce the amount and toxicity of waste generated and disposed of;

"**Minister**" means the Minister of the Department of Environmental Affairs;

"**Mixed recyclables**" mean a mixture of commonly recycled materials (e.g. wood, metal, corrugated cardboard, plastics, cans or paper) where ideally less than 10% by weight of the total load consists of non-recyclable materials;

"**Municipality**" means the Rustenburg Local Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office-bearer, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office-bearer, agent or employee;

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

"**Municipal service provider**" means a person or entity which provides a municipal service on behalf of the Municipality and in accordance with this By-law;

"**NEMA**" means the National Environmental Management Act, 1998 (Act 107 of 1998), its amendments and regulations;

"**NEM: WA**" means the National Environmental Management: Waste Act, 2008 (Act 59 of 2008), its amendments and regulations;

"**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**" means a person who occupies any premises or part thereof, without regard to the title under which he or she so occupies, and includes —

(a) any person in actual occupation of those premises;

(b) any person legally entitled to occupy those premises; in the case of those premises being subdivided and let to lodgers or various tenants, the person receiving the rent payable by such lodgers or tenants whether on the person's own account or as agent for any person entitled thereto or interested therein;

(d) any person having the charge of or management of those premises, and includes the agent of any such person when the person is absent from the Republic of South Africa or his or her whereabouts are unknown; or the owner of those premises;

"**Organ of state**" has the meaning assigned to it in section 239 of the Constitution; "owner" includes -

(a) the person in whom is vested the legal title to premises, including, but not limited to, the registered owner according to the title deed; where the person in whom the legal title to the premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the

person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative; in any case where the Municipality is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such premises or a building or buildings thereon; and in the case of premises for which a lease agreement of ten years or longer has been entered into and registered in the Deeds Office, the lessee thereof; in relation to a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act 95 of 1986), the developer or the body corporate in respect of the common property; or a section as defined in the Sectional Titles Act, the person in whose name such section is registered under a sectional title deed, and includes the lawfully appointed agent of such a person; the person who has purchased immovable property from the Municipality, in terms of a scheme that allows for the purchase price to be paid in instalments and who has not received transfer from the Municipality;

"**Person**" means any natural person, local government body or like authority, a company incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

"**Pollution**" means any change in the environment caused by — substances; or radio-active or other waves; or noise, odours, dust or heat, emitted from any activity, including the storage or treatment of waste or substances, construction and the provision of services, whether engaged in by any person or an organ of state, where that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future;

"**Premises**" means an erf or any other portion of land, including any building thereon or any other structure utilised for business, industrial or residential purposes;

"**Prescribed fee**" means a fee including a tariff or charge determined by Council resolution;

"**Prescribed tariff**" means a schedule of prescribed fees as entailed in the Municipality's budget;

"**Public notice**" means notice to the public in a manner determined by the Municipality;

"**Public place**" includes any public building, public road, overhead bridge, subway, foot pavement, footpath, sidewalk, lane square, open space, garden, park, sports ground, enclosed space vested in a Municipality, and any road, place or thoroughfare however created which is in the undisturbed use of the public or which the public has the right to use or the right to access; "public road" means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access and includes—

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

(b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and

(c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

"**Recovery**" means the controlled extraction or retrieval of any substance, material or object from waste;

"**Recyclable waste**" means waste that could be separated from the waste stream and set aside for purposes of re-use or recycling and include mixed recyclables;

"**Recycling**" means a process where recovered waste is further processed as a product or raw material;

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

"**SANS**" means South African National Standard;

"**SAW'S**" means the national waste information system established by the national government in accordance with NEM: WA;

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

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

"**Storage**" means the accumulation of waste in a manner that does not constitute treatment or disposal of that waste;

"**Structures Act**" means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

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

"**Systems Act**" means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000); "tariff" means the annually revised user charge for the provision of the municipal service, determined by the Municipality;

"**Transport**" means the movement of waste from one place to another; "waste" means:

any substance, material or object, whether or not that substance, material or object can be re-used, recycled or recovered— that is unwanted, rejected, discarded, abandoned or disposed of, or that is intended or required to be discarded or disposed of, by the holder of that substance, material or object and includes all wastes as defined in NEM:WA; any other substance, material or object that is not included in NEM:WA that is identified as a waste by the Minister by notice in the Gazette; but any waste or portion of waste, referred in subsections (a) or (b), ceases to be a waste— once an application for its re-use, recycling or recovery has been approved or, after such approval, once it is, or has been re-used, recycled or recovered;

(ii) where approval is not required, once a waste is, or has been re-used, recycled or recovered;

(iii) where the Minister has, in terms of NEM: WA, exempted any waste or a portion of waste generated by a particular process from the definition of waste; or

(iv) where the Minister has, in the prescribed manner, excluded any waste stream or a portion of a waste stream from the definition of waste;

"**Waste bag**" means a plastic bag at least 22 microns thick with dimensions of 750mm x 950mm or as otherwise prescribed by the Municipality and the same applies to a bin liner;

"**Waste disposal facility**" means any site or premise which receives waste for treatment or disposal thereof, and which is operated in terms of a license obtained from a statutory licence authority or otherwise in accordance with NEMA;

"**Waste handling facility**" means any site or premise that receives, accumulates, handles, recycles, sorts and temporarily stores or treats waste prior to its transfer for final disposal and is operated in terms of a license obtained from a statutory licence authority or otherwise in accordance with NEMA;

"**Waste information system**" means SAWIS;

"**Waste management activity**" means any one or more of the activities, as listed in NEM: WA, that a holder of waste may be involved in;

"**Waste management officer**" means a person designated by the Municipality to be responsible for coordinating matters pertaining to waste management;

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

"**Waste management services**" means services that relate to any one or more of the waste management activities;

"**Waste removal system**" means a system by means of which waste is removed and disposed of by the Municipality;

"**Waste tyre**" means a new, used, retreated, or un-roadworthy tyre, not suitable to be retreated, repaired or sold as a part worn tyre and not fit for its original intended use;

"**WEEEI**" means electrical and electronic equipment waste, e.g. computers, phones, TVs, radios, refrigerators, washing machines, lighting equipment, home entertainment and stereo systems, toys, toasters, kettles, etc. which if discarded and no longer re-useable, needs to be recycled for material recovery; "working day" means a day other than a Saturday, Sunday or public holiday but in the context of the Municipality's waste handling and waste disposal facilities it includes all calendar days except Christmas Day and New Year's Day.

2. The interpretation and application of this By-law must be guided by NEM: WA and NEMA.

3. In the event of any conflict between a section of this By-law and national legislation, the national legislation will prevail. In the event of any conflict between any section of this By-law and provincial legislation, the provincial legislation will prevail.

2. Principles

(1) The Municipality has the responsibility to ensure that— all domestic and business waste generated within the municipal area is collected, disposed of or recovered in accordance with this By-law; and such collection, disposal or recovery takes account of the waste management hierarchy outlined in subsection (2).

(2) The principle underpinning this By-law is the establishment and enablement of a waste management hierarchy in the following order of priority— avoidance, minimisation and reduction of

waste; re-use of waste; recycling, re-claiming, recovery, reprocessing and treatment of waste; and disposal of waste.

An official authorised in terms of this By-law must as is reasonably possible, take the hierarchy specified in subsection (2) into account

3. Main objects

(1) The main objects of this By-law are— to regulate the collection, handling, storage, transport, recycling, treatment and disposal of waste;

(b) to create an enabling environment for the private sector to fulfil their future EPR obligations of materials recovery that is linked to priority wastes and for which they are required to follow a DEA approved industrial waste management plan; to optimise the existing and future municipal waste collection scheme, handling practices, and public drop off facilities so that they allow for the most efficient recovery of materials;

(d) to regulate the pursuance of an integrated waste management approach; to regulate the provision of municipal services by a municipal service provider and commercial services by licensed service providers; and to enhance sustainable development.

(2) In pursuing the main objects of this By-law, the Municipality shall, within its financial and administrative capacity— endeavour to ensure local community involvement in local waste planning;

(b) endeavour to effect and unlock the recovery of materials by private sector parties as part of their future EPR obligations endeavour to minimise the consumption of natural resources; promote the recycling and re-use of waste within government, within the public domain and within the private sector; encourage waste separation at source (both at household and private sector level) to facilitate and optimise re-use and recycling opportunities; promote the effective resourcing, planning and delivery of municipal services and commercial services; endeavour to achieve integrated waste management, planning and services in a local context;

(h) promote and ensure environmentally responsible municipal services and commercial services; and endeavour to ensure compliance with the provisions of this By-law

4. Duties and obligations

(1) A holder of waste must take all reasonable measures to:

reduce or avoid waste generation and minimise the amount and toxicity of waste generated;

(b) re-use, recycle and recover waste (e.g. for repair and refurbishment); dispose waste in an environmentally sound manner;

(d) manage waste in a manner not endangering health or the environment and cause no nuisance related to sight, noise or odour; prevent waste from being used for an unauthorised purpose including the prevention of persons under his supervision from contravening this By-law;

A person who imports, manufactures and/or sells a product which may be used by the public and is likely to result in the generation of hazardous waste must as part of its EPR obligations take all reasonable steps to inform the public of the impact of that waste on health and the environment.

(3) Any person subject to the duties and obligations imposed in subsections (1) and (2) may be required by the Municipality or an authorised official to take measures to ensure compliance with these duties and obligations, which measures may be to— investigate, assess and evaluate the impact on the environment;

(b) inform and educate employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing significant pollution or degradation of the environment; cease, modify or control any act, activity or process causing the pollution of degradation;

(d) contain or prevent the movement of pollutants or the cause of degradation; eliminate any source of the pollution or degradation; remedy the effects of the pollution or degradation.

CHAPTER 2

INTEGRATED WASTE MANAGEMENT

5. Waste management plans

(1) The Municipality shall— establish, review and revise its integrated waste management plan in accordance with the prescriptions of national legislation; annually report on the implementation of its integrated waste management plan; and follow prescribed processes of community consultation in terms of subsections (l)(a) and (b).

(2) All public events organised and hosted in the municipal area must at least one month prior to the event taking place submit to the Municipality a waste management plan that includes the waste management services to be provided, outline the strategy how to prevent and reduce waste from the planning outset and such other information as may be required by the Municipality.

(3) An owner or occupier or any other person responsible for a new development must submit to the Municipality an integrated waste management plan including such information as the Municipality may require prior to the start of the development and also during the development, if so requested by the Municipality.

(4) The Municipality may grant conditional exemption in terms of subsections (2) and (3) depending on the size, nature and duration of the event or the size of the development;

(5) The Municipality shall require a holder of waste involved in a waste management activity listed in terms of section 19 of NEM: WA to submit its integrated waste management plan to the Municipality within a specified time and thereafter at intervals coinciding with the requirements of national and provincial legislation or standards.

(6) The Municipality may require from any other holder of waste excluding domestic waste to submit within a reasonable time and thereafter at intervals determined by the Municipality an integrated waste management plan containing such information as the Municipality deems necessary or, if applicable, a copy of its industry waste management plan as required by national legislation. If an integrated waste management plan as referred to in subsections (4), (5) or (6) is in any way changed or amended, the holder of waste must submit such changed or amended plan to the Municipality

6. Waste information system

(1) The Municipality shall establish and maintain a waste information system including information on the levels and extent of waste management services provided by it and enter such information on the SAW'S as and when required.

(2) The Municipality may require from a holder of waste or any person to furnish the Municipality within a reasonable time or on a regular basis with such data, documents, information, samples or materials and the verification of information reasonably required by the Municipality to discharge its responsibilities in terms of subsection (1).

(3) The Municipality may request a person or holder of waste that it reasonably believes should be registered on the SAWIS or the provincial waste information system to effect such registration and submit proof thereof to the Municipality or to submit proof of not conducting a waste management activity obligating such registration within a reasonable time.

7. Waste minimisation and recycling

(1) The Municipality shall in accordance with its responsibilities and its resources progressively implement measures in partnership with EPR obligated private sector parties to reduce waste and promote the recovery, re-use and recycling of waste including waste separation at source.

(2) The Municipality may on a regular basis and in a manner it deems suitable acknowledge outstanding achievements in respect of waste avoidances waste minimisation, recycling or other waste management practices advancing environmentally responsible integrated waste management

8. Waste management activities

(1) The Municipality may require a holder of waste in possession of or responsible for waste that must be classified, recorded, labelled or in any way assessed or re-assessed, to submit proof of compliance with the relevant prescriptions of national and provincial legislation and standards as applicable thereto and the Municipality will strictly adhere to any such legislation or standards in respect of its own waste management activities.

The Municipality's approval, inspection and monitoring of waste storage facilities, scrap metal yards, private buy-back centres, vehicle scrapping or recovery facilities and any other facilities where materials suitable for re-use or recycling are recovered (for and without financial gain) shall be in accordance with national and provincial legislation and standards and the Municipality's by-laws and will require the owners or occupiers of these premises to submit such information, plans and records as the Municipality deems necessary to fulfil its duties as a waste management authority.

CHAPTER 3

COLLECTION OF WASTE

9. Levels of service

(1) The levels of waste collection may differ between areas based on the practicality and cost-efficiency of delivering the service. Service levels in areas may vary between:

on-site appropriate and regularly supervised or monitored disposal; community transfer to a central collection point; organised transfer to a central collection point and kerbside collection; and a combination of these levels.

10. Compulsory use of service

(1) Subject to the provisions of section 68, no one except the municipality or a person authorised by the municipality may remove any waste from any premises or dispose thereof and each owner of residential and business premises must make use of the service provided by the municipality for the removal or disposal of waste.

(2) The waste collection service rendered by the Municipality in terms of subsection (1) shall be in accordance with the agreement for services concluded with the Municipality; which agreement may be amended in writing to make provision for an increase in the frequency or volume of the waste removal service rendered should it be required by the Municipality or in response to a request by the owner or occupier of residential or business premises.

(3) The tariff for domestic and business waste removal as fixed by the municipality shall be payable to the municipality by the owner, irrespective whether the service is being used, or not, except where exemption is granted in terms of section 68.

(4) Availability tariffs may be charged on vacant premises.

The Municipality may determine which waste items are unsuitable for collection if it does not constitute domestic waste or business waste or could be classified as bulky waste, household and business hazardous waste or e-Waste and, if waste is determined to be unsuitable for collection, a process for removal and disposal of such waste shall be recommended by the Municipality to the owner of the waste or occupier of the premises.

(6) If the Municipality's scheduled waste collection services are interrupted for whatever reason, the Municipality must resume the service as soon as reasonably possible and address backlogs as a matter of priority.

(7) Complaints about the Municipality's waste collection service will be dealt with in accordance with the

Municipality's customer care policy.

11. Frequency

(1) The Municipality must collect domestic waste and business waste at least once per week on scheduled dates for different areas. Occupiers or owners of premises will be informed of revised collection arrangements reasonably in advance.

(2) The Municipality may determine which business premises generate waste that can be regarded as dailies and may instruct an increase in the frequency of waste collection from such premises as provided for in section 10(2).

(3) If the Municipality is of the opinion that a business creates a nuisance, health risk, odour or danger to public health due to the fact that waste is not removed during weekends, the Municipality may instruct the owner or occupier to make use of an additional waste collection service rendered by the municipality at a prescribed fee.

(4) An owner or occupier of a business premise who receives a waste removal service once per week may apply to the Municipality in writing to increase the number of waste removals to multiple times per week if so available and as provided for in section 10(2).

12. Volume

(1) The Municipality may determine— the number of containers to be collected from each residential premise per collection;

(b) the number of containers to be collected from each business premise per collection based on an inspection of the waste volumes with the owner or occupier; and the maximum amount of business waste that may be placed for collection without the provision of an additional service or the payment of an additional prescribed fee.

(2) Should the Municipality require the provision of an additional service to a residential or business premise or the owner or occupier of a residential or business premise apply to the Municipality in writing to increase the number of containers to be collected per collection from its premises, these changes will be effected as provided for in section 10(2).

(3) The Municipality may, if practical, institute measures to determine the weight of waste disposed of in a container to effect a 'pay as you throw' tariff based on the DEA pricing schedule.

13. Containers

The Municipality will collect domestic waste placed in approved domestic waste containers and

business waste placed in approved business waste containers from a location and in a condition as determined. Waste placed in a location or a container not meeting the prescriptions of the Municipality will not be collected.

(2) Where the Municipality notices the absence of an approved container, it may provide an approved container and recover the cost from the owner or occupier.

In case of damage caused through the negligence of the owner or occupier of the premises the container may be replaced by the Municipality after receiving a written request for such replacement and full payment of the cost involved.

(4) The owner or occupier of a residential or business premise shall be responsible for marking his/her container/s with the stand number to ensure easy identification thereof and to assist the municipal employees to return it to the correct stand.

(5) Containers for the temporary storage of waste at business and residential premises must be kept in good condition and fit for the safe storage of waste to prevent damage to the environment and harm to health.

(6) No person may allow an animal in his or her control to interfere with, overturn or damage a container which has been placed for collection.

The owner or occupier of business or residential premises must ensure that— a container contains no hot ash, unwrapped glass or other domestic waste, business waste including dailies which may cause injury to the municipal employees while carrying out their duties or damage to the container; no material, including any liquid, which by reason of its mass or other characteristics is likely to collection and removal of waste and such containers must then be placed in that position at such times and for such period as the Municipality may require.

No owner or occupier of premises is allowed to place any waste bags or other containers containing waste other than domestic or business waste outside the premises unless approved by the Municipality for a specific purpose and subject to conditions as the Municipality may impose.

14. Communal collection

(1) The Municipality shall in high density areas where a sustainable, formalised domestic waste collection service can be rendered, collect the waste of individual households on a weekly basis.

(2) The Municipality shall place appropriate bulk containers at central communal collection points determined by the Municipality as suitable for communal collection.

(3) Communal collection points will be clearly demarcated areas.

(4) The bulk containers must be in accordance with the Municipality's specifications and its location will as far as reasonably possible— allow secure and easy access to the community;

(b) prevent windblown litter; enable easy access for the Municipality's waste collection vehicles.

The waste will as far as reasonably possible be collected once per week or within 24 hours of a bulk container being reported full to the Municipality.

(6) Waste separation at source will be encouraged in respect of communal collection by providing separate bulk containers for mixed recyclables and non-recyclable waste at the communal collection points should the Municipality determine it to be viable.

15. Collection in rural areas

(1) Where it is not economically viable for the Municipality to provide bulk waste containers or any other form of collection of waste in its rural areas, communities and farmers are encouraged to make use of the Municipality's coupon system to dispose of waste at designated municipal waste handling or waste disposal facilities.

(2) Notwithstanding the above, the Municipality will in co-operation with rural communities work to find cost-effective ways to expand waste collection practices to the rural areas.

(3) The Municipality is in accordance with national legislation generally not permitting on-site disposal of waste but may as an exception (and only with the relevant authorisation in place) allow on-site waste disposal in rural areas if no other feasible alternatives could be made available; in which case, the Municipality will supervise or monitor such practices and exercise control over it in so far as it is reasonably possible.

16. Recycling

(1) Any owner or occupier of a business or residential premise or any other holders of waste as determined by the Municipality and in areas as determined by the Municipality may be required to— separate their waste in mixed recyclables (e.g. paper, glass and plastic) and non-recyclables

in accordance with the directives of the Municipality;

(b) use different containers for waste so separated as directed or provided by the Municipality or an authorised service provider; place containers containing the mixed recyclables and non-recyclable waste outside the entrance to the premises at a time and day specified by the Municipality or, if so requested, drop containers off at places as directed by the Municipality; and (d) follow any other reasonable prescribed procedures.

(2) The Municipality may locate drop-off centres for mixed recyclables and non-recyclable waste in all the towns at places ensuring easy and safe access for the public.

17. Accumulation of waste

(1) The owner or occupier of a business or residential premise must ensure that all domestic or business waste generated on the premises be placed for collection and not be accumulated.

(2) Where a type or quantity of waste is not collected by the Municipality or regularly removed by a licensed service provider, the owner or occupier of the premises or holder of the waste must arrange for the removal, transport and disposal of the waste at a waste handling or waste disposal facility, as often as may be necessary to prevent undue accumulation and any nuisance or detrimental impact on human health or the environment arising from the waste.

The Municipality may enter any premises where it suspects waste of any type is accumulated and may instruct the person generating the waste or the owner or the occupier of the premises where it is so accumulated to remove the waste immediately or the Municipality may proceed to do so at the cost of the owner or occupier of the premises where the waste is accumulated.

CHAPTER 4

HANDLING DIFFERENT TYPES OF WASTE

Part 1

Garden Waste

18. Composting

The owner or occupier of premises on which garden waste is generated may compost garden waste on the property, provided that such composting does not cause a nuisance nor has a detrimental impact on human and environmental health

19. Disposal of garden waste

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

At the request of the owner or occupier of any premises the Municipality could remove garden waste from premises subject to the payment of the charge and the conditions determined by the Municipality.

Part 2

Bulky Waste

20. Removal and disposal

(1) The owner or occupier of premises on which bulky waste is generated, shall ensure that such waste is removed and disposed of in terms of this By-law within fourteen days after generation thereof at a waste handling or waste disposal facility determined by the Municipality.

(2) At the request of the owner or occupier of any premises the Municipality may remove bulky waste from premises, provided that the Municipality is able to do so with its waste removal equipment and subject to the payment of the prescribed charges.

Part 3

Building Waste

21. Plans and inspection

(1) An owner or occupier or any person responsible for the submission of building plans for a new building or an alteration to an existing building must include therein the manner in which building waste will be handled as well as the anticipated volumes of building waste to be generated.

(2) An authorised official of the Municipality must inspect and verify that the waste arrangements contemplated in subsection (1) were followed and all building waste appropriately disposed of as part of the final municipal sign-off of the building activities.

22. Generation and storage

(1) Notwithstanding the waste arrangements contemplated in section 21, the owner or occupier of premises on which building waste is generated and/or the person engaged in any activity which causes such waste to be generated, must ensure that— all building waste and the containers used for the storage thereof is kept on the premises on which the building waste is 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; any building waste which is blown off the premises, is promptly retrieved.

(2) Upon written request and subject to conditions as it may determine the Municipality may approve the use of a bulk container placed on a verge for a specified duration.

The Municipality may instruct an owner or occupier of premises on which building waste is generated and/or the person engaged in any activity which causes such waste to be generated to make use of special containers to dispose of it and will determine a tariff for the use of such containers should these be provided by the Municipality

23. Removal and disposal

(1) The owner or occupier of premises on which building waste is generated and/or the person engaged in any activity which causes such waste to be generated, must ensure that all building waste is removed and disposed of continuously so as to prevent unnecessary accumulation of such waste (2) Building waste must be disposed of at a waste handling and/or waste disposal facility determined by the Municipality.

Part 4

Special Industrial, Health Care and Hazardous Waste

24. Notification and verification

(1) Any person that will engage in activities which will generate special industrial, hazardous or health care waste must prior to the generation of such waste, notify the Municipality in writing of the expected or known composition of such waste;

(b) the quantity to be generated; how and where it will be stored;

(d) how it will be collected and disposed of; and

(e) the identity of the licensed service provider who will be responsible for its removal, transportation and disposal.

(2) Any person engaged in waste activities as referred to in subsection (1) which were established and in operation prior to the commencement of this By-law, must notify the Municipality as contemplated in subsection (1) within ninety days of the commencement of this By-law of such activities and provide the information required in terms of subsection (1).

(3) If so required by the Municipality, a notification referred to in subsection (1) or (2) must be substantiated by—

(a) an assessment and analysis of the waste composition certified by an appropriately qualified industrial chemist;

(b) safety data sheets or completed waste manifest document/s; and such other records required to verify compliance with applicable legislation, national standards and SANS Codes.

(4) The person referred to in subsection (1) or (2) must when changes occur and annually before or on the 30th of June submit to the Municipality a written report containing: the information stipulated in subsection (1);

(b) the substantiating documents referred to in subsection (3); and any other information which the Municipality may reasonably require.

(5) An authorised official may enter premises at any reasonable time to ascertain whether waste referred to in subsection (1) is generated or stored on such premises and may take samples and test any waste found on such premises to ascertain its composition.

25. Storage

(1) Special industrial, health care and hazardous waste generated on premises must be stored thereon in an approved container until it is collected from the premises and it must be stored in a manner not creating a nuisance or causing harm to human health or polluting the environment and in accordance with applicable legislation, national standards and SANS Codes.

(2) If the waste referred to in subsection (1) is not stored as stipulated, the Municipality may require a full record of the waste content, date of containment and quantity and if such a record is not available the Municipality may instruct the person generating the waste or the owner or the occupier of the premises where it is stored to remove the waste immediately or the Municipality may proceed to do so at the cost of the owner or occupier of the premises where the waste is stored.

26. Collection and disposal

(1) Only a licensed service provider may collect special industrial, health care and hazardous waste from premises where it is stored and transport it to and dispose of it at a waste disposal facility designated by the Municipality to receive such waste.

(2) A licensed service provider must collect, transport and dispose of the waste referred to in subsection (1) in accordance with its accreditation terms and conditions and in compliance with applicable legislation, national standards and SANS Codes.

Part 5

Industrial Waste and Special Waste including e-Waste

27. Storage

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

28. Collection and disposal

(1) Only a licensed service provider may collect industrial or special waste from premises where it is stored and transport and dispose of it at a waste disposal facility designated by the Municipality to receive such waste.

(2) A licensed service provider must collect, transport and dispose of the waste referred to in subsection (1) in accordance with its licence terms and conditions and subject to the requirements of any applicable legislation, national standards and SANS Codes.

(3) The Municipality may determine specific times for acceptance of special waste at the site referred to in subsection (1).

Part 6

Tyres, Disused Vehicles or Machinery, Scrap Metal and WEEE

29. Storage and disposal

(1) No owner or occupier of premises with an operational area in excess of the statutory determined limit may temporary accumulate, store or stockpile waste tyres, disused, scrapped, dismantled or recovered vehicles or machinery, scrap metal or WEEE unless the waste management activity is managed in accordance with national standards or licensed in terms of national legislation, whichever is applicable.

(2) Waste tyres, disused, scrapped or dismantled vehicles or machinery, scrap metal and WEEE are not accepted at any of the Municipality's own waste handling or waste disposal facilities. Any person having to dispose of any of these materials must dispose thereof at a waste disposal site and in terms of conditions determined for such waste disposal or at the premises of a legally compliant special industry body, local waste processor, buy-back centre or recycler as directed by the Municipality.

The Municipality may enter the premises of any person involved in the storage or stockpiling of waste tyres, disused vehicles or machinery, scrap metal or WEEE and request proof of any plans including its integrated waste management plan, licenses or other applicable documents to verify compliance with applicable legislation.

Part 7

Household and Business Hazardous Waste

30. Storage, collection and disposal

An owner or occupier of residential or business premises generating very small quantities of household and business hazardous waste, may temporarily store such waste including WEEE in a manner not creating a nuisance or causing harm to human health or polluting the environment.

(2) The materials stored in terms of subsection (1) must be either collected by an authorised service provider or dropped off by the owner or occupier of the residential or business premises to a waste handling or disposal facility designated by the Municipality and in terms of conditions determined for such waste handling or disposal facility or a legally compliant special industry body, waste processor, buy-back centre or recycler as directed by the Municipality.

Part 8

Recyclable Waste

31. Storage, collection and disposal

An owner or occupier of premises or any other person may not temporary accumulate, sort, store or stockpile recyclable waste on any premises within the municipal area unless acting in accordance with subsection (2).

(2) An owner or occupier of premises or any other person must prior to commencing an activity involving the re-use, reclamation or recycling of waste (including the wastes referred to in Part 6), comply with national and provincial legislation and standards and applicable SANS Codes for such activity and provide the Municipality with a copy of his integrated waste management plan and such other information as the Municipality may require.

(3) Only a licensed service provider may collect recyclable waste from premises where it is generated or separated from other waste and transport and dispose of it at a material recovery facility or a waste disposal facility designated by the Municipality to receive such waste.

Part 9

Agriculture and Farm Waste

32. Disposal

An owner or occupier of farm land may subject to subsections (2) and (3) use on-site disposal of waste but burning of waste is strictly prohibited unless authorised by the Chief Fire Officer in terms of

the Fire Safety By-law of the Municipality.

(2) An owner or occupier of farm land may not dispose any quantity of hazardous waste, which may be present in agricultural waste, to the land unless in possession of the applicable waste management license in terms of national legislation, and if applicable, provincial legislation.

(3) An owner or occupier of farm land may dispose of general waste, which may include agricultural and farm waste, to the land provided this is done in accordance with applicable

legislation, national standards and SANS Codes and, if the quantity of waste requires it, authorisation thereof by a valid waste management license.

(4) An authorised official of the Municipality may request an owner or occupier of farm land who he suspects is disposing hazardous waste and/or general waste exceeding the quantity allowed for disposal to provide proof of the licences referred to in subsections (2) or (3) and, irrespective of the composition or quantity of the waste disposed of to land by the owner or occupier, the Municipality may request the owner or occupier to submit an integrated waste management plan to the Municipality within a determined time frame.

(5) An owner or occupier of farm land may apply in writing to make use of the Municipality's waste handling and waste disposal facilities, the approval of which will provide the applicant access to the Municipality's coupon system and disposal of waste excluding hazardous and health care waste at waste handling or waste disposal facilities as directed by the Municipality in its approval.

CHAPTER 5

TRANSPORTATION AND DISPOSAL

Part 1

Transportation of Waste

33. Safe transportation

(1) No person may—

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

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

34. No wastage or spillage

(1) A person transporting waste through the municipal area must ensure that— loose waste on an open vehicle is covered with a tarpaulin or suitable net; and (b) no waste become detached, leak or fall from the vehicle transporting it.

35. Legal Compliance

(1) A transporter of waste, specifically hazardous waste, must ensure he or she operates in compliance with all relevant national and provincial legislation, national standards and SANS Codes.

Part 2

Waste Disposal

36. Permitted use

The Municipality may prescribe which types of waste may be disposed of at a particular waste handling or waste disposal facility as permitted in terms of the license stipulations of each facility and further in compliance with national legislation and standards.

(2) Different tariffs for the disposal of different waste types and volumes are applicable but residents are allowed free disposal of a certain volume of general waste as determined by the Municipality.

38. Conduct at facilities

No person may enter a waste handling or a waste disposal facility for any purpose other than the disposal of waste in terms of this By-law and only at such times and between such hours as the Municipality may determine and display on a clearly visible notice board at the entrance of the waste handling or waste disposal facility.

Every person who, for the purpose of disposing waste enters a waste handling or a waste disposal facility must— enter and leave the facility at the designated entrance and exit points;

(b) supply all the particulars required regarding the source and composition of the waste, which waste may be inspected by the Municipality; follow all instructions with regard to access to the actual disposal, transfer or recycling point and the place where and the manner in which the waste should be deposited; and

(d) where applicable, purchase and/or show the required disposal coupon in accordance with the weight of the waste disposed.

(3) No person may bring any intoxicating liquor or narcotic substances into any waste handling or waste disposal facility.

(4) The Municipality may prescribe the maximum size of a vehicle allowed to enter a waste handling or waste disposal facility.

39. Accepting waste from others

(1) The Municipality may consider an application from another municipality to dispose waste at a designated waste disposal facility provided that the acceptance of waste from another municipality will not impact on the Municipality's authority and ownership of the said waste disposal facility. The Municipality may allow a person to dispose waste generated outside the Municipality's municipal

Area at a designated waste disposal facility of the Municipality provided such person first becomes a licensed service provider as provided for in this By-law.

The tariffs applicable to licensed service providers referred to in subsection (2) may differ from the waste disposal tariffs stipulated in the Municipality's Tariff By-laws.

40. Enabling Private Party Initiatives

(1) The Municipality must take reasonable steps to ensure that a sufficient number of containers are provided for the discarding of litter by the public on any premises to which the public has access.

(2) The Municipality may allow for the provision of private drop-off and/or value-add treatment facilities at municipal waste handling and/or waste disposal facilities in order to enable the execution of EPR obligations, the reduction of waste disposed to landfill and the generation of renewable energy through public-private partnership arrangements in order to reach national targets in this regard.

CHAPTER 6

LITTERING AND DUMPING

41. Provision of facilities for litter

The owner or occupier of private land to which the public has access must ensure that sufficient containers are provided to contain litter which is discarded by the public.

The Municipality or the owner or occupier of private land must ensure that a container provided in terms of subsections (1) or (2) is suitably located, sized, weighted, constructed and anchored to fulfil its intended purpose, regularly emptied and kept in a good and hygienic condition.

42. Littering and dumping

No person may drop, throw, deposit, spill, dump or in any other way discard, any litter or waste into or onto any public place, public road, road, municipal drain, land, vacant erf, stream or any other places not allowed for in this By-law or allow any person under their control to do so.

No person may use a container provided for litter to dispose of domestic, business or garden waste or disturb or remove litter from such a container in a way that the litter is spilled. (3) An authorised official may act against any of the contraventions listed in subsections (1) or (2) through a written notice directing such person to— cease the contravention within a specified time;

(b) prevent a repeat of the contravention or a further contravention; take whatever measures that the Municipality considers necessary to clean up or remove the waste and rehabilitate the affected environment within a specified time; and to pay a fine or appear in court in terms of the Criminal Procedure Act, 1977 (Act 51 of 1977).

An owner or occupier of land or premises or any other person in control of land or premises, may not use or permit the land or premises to be used for unlawful dumping of waste and must take reasonable steps to prevent the use of the land or premises for that purpose

(4) Should the Municipality regard it necessary to remove waste or litter from land or premises, the owner, occupier or person having control over the land or premises will be held liable for the costs incurred by the Municipality for the removal operation.

(5) In the case of hazardous waste, the Municipality will immediately remove such waste and thereafter issue notices to the person liable for the cost of removal and rehabilitation of the environment.

43. Burning of waste

Burning of waste is strictly prohibited unless authorised by the Chief Fire Officer in terms of the Fire Safety By-law of the Municipality

44. Abandoned objects

A person who abandons any article which may be classified as waste in terms of this By-law, is liable for any damage which that article has caused or may cause as well as for the cost of removing that article notwithstanding the fact that such person may no longer be the owner thereof.

CHAPTER 7

EXTERNAL SERVICE PROVIDERS

Part 1

Licensed Service Providers of Commercial Services

45. Licence application

No person may provide commercial services for the collection and transport of waste in the municipal area unless such person has registered with the Municipality and obtained a licence authorising these waste management activities.

(2) An application for a licence must be submitted in writing in a format or on a form prescribed by the Municipality including such information as the Municipality requires and the prescribed fee and, unless subsection (3) applies, the Municipality's prior approval for the collection and transportation of waste.

Any person already providing these commercial services at the commencement of this By-law, must within ninety days of such commencement date submit an application for accreditation in terms of subsection (1), failing which the person will as from the date that the said ninety days' period expired no longer be able to render such services in the municipal area.

(4) The Municipality will consider and grant or reject the application submitted in terms of subsection (3) within thirty days of its receipt having regard to the health, safety and environmental record of the applicant and the nature of the commercial service to be provided and will furnish written reasons if such application is rejected.

Registration as a service provider does not entitle the service provider to render a waste removal service without the Municipality's approval of an exemption in terms of section 68.

46. Terms and conditions of licences

(1) A licence must clearly identify the licensed person or entity; specify the licence period; specify the categories of waste which the licensed service provider may collect, transport and dispose;

(d) outline the information recording and submission requirements of the Municipality for its own integrated waste management plan and SAW'S; and specify other procedural matters that may be necessary.

(2) A licence—

(a) may not be ceded or assigned without the prior written consent of the Municipality; is valid for one year from the date of issue; and is valid only for the categories of waste specified therein.

(3) A licence authorisation will include a display sticker for each of the vehicles identified in the application indicating the validity period and the category of waste for which the licence is granted, which sticker must be clearly displayed on the front window of the vehicles.

(4) The Municipality will not receive waste at its waste handling facilities or waste disposal facilities from service providers or contractors who are not able to provide proof of the licence authorisation should it be requested and without a licence sticker on the vehicle.

(5) A licensed service provider may not fail or refuse to provide the Municipality with any information reasonably requested with regards to the terms and conditions of the licence or give false or misleading information.

(6) A licensed service provider is fully liable for any act or omission by any of his or her employees if such act or omission is a transgression of the licence conditions or have a detrimental impact on human health or the environment.

47. Renewal of licences

(1) A licence renewal application must be submitted at least sixty days prior to the expiry date thereof and must be considered and either granted or rejected by the Municipality within thirty days of receipt of the renewal application. The Municipality must provide reasons for the rejection of a licence renewal.

Notwithstanding anything to the contrary in this By-law, the Municipality must temporary extend a licence for a specific duration not exceeding thirty days if a licensed service provider followed the correct procedure as contemplated in subsection (1) and due to the Municipality's processes, the renewal application has not been considered

48. Suspension and revocation of licences

(1) The Municipality may suspend or revoke a licence if a service provider failed to comply with any of the terms and conditions of the licence or any other provision of this By-law, or any national or provincial legislation regulating the collection, transportation or disposal of waste or any other grounds considered by the Municipality as substantive reason to revoke or suspend a licence.

(2) The Municipality must give a licensed service provider written notice of the intended suspension or revocation of his or her licence and thirty days from the date of issuing the notification to submit reasons for such action not to be taken by the Municipality.

Irrespective of a representation being made by the licenced service provider, the Municipality must notify him or her of its decision within 14 days after expiry of the time given for response

49. Licence exemptions

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

50. Consumer responsibilities

(1) The owner or occupier of premises or the holder of waste that contracts with a licensed service provider must ensure that— the service provider is licensed to collect and transport the categories of waste for which he or she is contracted;

(b) until such time as the licensed service provider collects such waste from the premises on which it was generated, the waste is stored in an approved container and no nuisance, including but not limited to dust and smells, is caused by the handling of the waste in the course of its generation, storage or collection; and the service rendered is only in respect of the categories of waste authorised in the licence.

Part 2

Municipal Service Providers

51. Outsourcing of services

The Municipality may enter into agreements with external service providers, whether public or private, for the rendering of municipal waste services and support activities and must do so in accordance with municipal, provincial and national legislation

52. Consumer charter

If a municipal service provider as contemplated in section 51 is appointed by the Municipality, to render a service to a large geographical area or part of its population, the municipal service provider may be required to compile and adopt a consumer charter in consultation with the community.

CHAPTER 8

GENERAL

53. Ownership

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

(2) A person who generates domestic or business waste is the owner thereof until it is collected by the Municipality

54. Access to premises

(1) Should the Municipality be impeded from collecting or handling waste due to the layout of the premises or such layout is likely to result in damage to private property or municipal property or injury to the Municipality's employees, the Municipality may require the owner or occupier to do such alterations as necessary at own cost to remove any impediments.

(2) Should the owner or occupier fail or refuse to comply with the Municipality's request, the Municipality may suspend the service and require the owner or occupier to indemnify it in writing in respect of such damage or injury or any claims arising of either before resuming the service.

CHAPTER 9

COMPLIANCE AND ENFORCEMENT

55. Compliance with this by-law and other laws

(1) The owner or occupier of premises is responsible for ensuring compliance with this By-law.

Any person or entity who requires a waste related license or authorisation must submit proof of such licence or authority to an authorised official upon request

56. Authorisation of an authorised official

(1) The Municipality or a municipal service provider as contemplated in section 51 of this By-law, may authorise any person in its employ to give effect to the provisions of this By-law.

(2) The waste management officer of the Municipality is an authorised official. 30. (1) An authorised official may execute work, conduct an inspection and monitor and enforce compliance with this By-law and, as applicable, national and provincial legislation relating to waste management.

Service of notices and documents

57. Functions and powers of an authorised official

30. A notice or document issued by the Municipality in terms of this By-law must be deemed to be duly authorised if an authorised official signed it.

If a notice or document is to be served on an owner, occupier or any other person in terms of this Bylaw it shall be deemed to be effectively and sufficiently served on such a person-

(a) when it has been delivered to him or her personally or to his or her duly authorised agent;

(b) when it has been left at his or her residence or place of business or employment to a person apparently not less than sixteen years of age and residing or employed there; if he or she has nominated an address for legal purposes, having been delivered to such an address; if he or she has not nominated an address for legal purposes, having delivered it to the address given by him or her in his or her application for the provision of waste services, for the reception of an account for the provision of waste services;

(e) when it has been sent by pre-paid registered or certified post addressed to his or her last known address for which an acknowledgement of the posting thereof will be obtained from the postal service; in the case of a legal person, by delivering it at the registered office or business premises of such legal person; or if service cannot be effected in terms of subsections (a) to (f), by affixing it to a conspicuous place on the premises concerned

58. Service of notices and documents

59. Compliance notices

An authorised official may issue a written notice to any person contravening the provisions of this Bylaw.

(2) A notice in terms of subsection (1) must

(a) provide details of the provision of the By-law that has not been complied with;

(b) provide the owner, occupier, or other party a reasonable opportunity to make representations within a specified period; specify the steps that the owner, occupier or other person must take to rectify or remedy the failure; specify the period within which the owner, occupier or other person must take these steps to rectify the failure; and indicate that the Municipality may if the notice is not complied with, undertake or allow the work that is necessary to rectify the failure to be undertaken and recover from the owner, occupier or other person the actual cost of such work; and take any other action it deems necessary to ensure compliance.

(3) If an owner or occupier or any other person fails to comply with a written notice served on him or her by the Municipality in terms of this By-law, the Municipality may take such action as in its opinion is necessary to ensure compliance, including-

Undertaking the actions and/or work necessary and recovering the cost of such actions

and/or work from the owner, occupier or other person; or

Instituting legal proceedings against the owner, occupier, or other person in terms of the Criminal Procedure Act, 1977 (Act 51 of 1977). (2) In the event of an emergency, notwithstanding any other provisions of this By-law, the Municipality may without prior notice undertake the work contemplated in subsection (3) and recover such costs from the owner, occupier or other person.

(3) The actual costs recoverable by the Municipality in terms of subsections (3) and (4) shall be the full costs associated with such work.

(4) In the case where compliance with a notice is required within a specified number of working days, such period shall be deemed to commence on the date of issue of such notice.

A notice or document issued in terms of subsection (2) is valid until one of the following events occurs:

(a) it is carried out;

it is cancelled by the authorised official who issued it or, in that person's absence, by a person with similar authority; the purpose for which it was issued, has lapsed

60. Power of entry and inspection

30. An owner or occupier must, on request, allow an authorised official access to premises to carry out such inspection and examination as he or she may deem necessary to investigate any contravention of this By-law and ensure compliance therewith.

When accessing the premises, the authorised official must, if requested, identify him or herself by means of an appointment certificate

61. Using force to enter

(1) Force may not be used to affect entry to execute work or conduct an inspection on any premises in terms of section 60, unless an environmental emergency arises.

62. Liabilities and compensation

The Municipality will not be liable for damages or compensation arising from anything done by it in terms of this By-law

63. False statement or information

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

64. Appeals

30. A person whose rights are affected by a decision of the Municipality in terms of delegated authority may appeal against that decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Local Government Municipal Systems Act, Act 32 of 2000 to the municipal manager within twenty-one days of the date of notification of the decision.

65. Offences

(1) It is an offence for any person to -

(a) refuse to grant an authorised official access to premises to which that authorised official is duly authorised to have access;

(b) obstruct, interfere or hinder an authorised official who is exercising a power or carrying out a duty under this By-law; fail or refuse to provide an authorised official with a document or information that the person is required to provide under this By-law; give false or misleading information to an authorised official; unlawfully prevent the owner of any premises, or a person working for that owner, from entering the premises in order to comply with a requirement of this By-law; pretend to be an authorised official;

(g) alter an authorisation to an authorised official or written authorisation, compliance notice or compliance certificate issued in terms of this By-law; enter any premises without a written notification in circumstances requiring such notification; act contrary to a written notice or document issued in terms of this Chapter; disclose any information relating to the financial or business affairs of any person which was acquired in the performance of any function or exercise of any power in terms of this By-law, except — to a person who requires that information in order to perform a function or exercise a power in terms of this By-law; if the disclosure is ordered by a court of law; or if the disclosure is in compliance of the provisions of any law. contravene or fail to comply with any of the provisions of this By-law; fail to comply with any notice issued in terms of this By-law;

(m) fail to comply with any lawful instruction given in terms of this By-law;

(n) Contravene or fail to comply with any conditions imposed upon the granting of any licence, consent approval, concession, exemption or authority in terms of this By-law.

(2) A person who causes or incites another person to commit an offence referred to in subsection (1), or who, being in a position of authority over another person, permits or allows him or her to commit an offence, will be guilty of that offence.

66. Penalties

(1) Any person who contravenes any of the provisions of section 65 shall be guilty of an offence and liable on conviction to a fine or imprisonment or to such imprisonment without the option of a fine or to both such fine and such imprisonment and,

(b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and, a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as a result of such contravention or failure.

(2) In addition to any penalty imposed in terms of subsection (1) the Municipality may terminate the rendering of waste services to such a person.

67. Application of this by-law

This by-law applies to all persons or bodies, including organs of State, situated within the area of jurisdiction of the Madibeng Local Municipality.

68. Exemptions

(1) Any person may, by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.

(2) The municipality may:

(a) grant an exemption in writing in which the conditions and terms, if any, and the period for which such exemption is granted is stipulated, alter or cancel any existing exemption or condition in such exemption after due notice to the person concerned; or refuse to grant an exemption in which case reasons for the refusal must be furnished to the person concerned.

(3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2); however, if any activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses,

If any condition of an exemption is not complied with, the municipality may revoke the exemption after due notice to the person concerned

69. Repeal of by-laws

The provisions of any by-laws previously promulgated by the Municipality or by any of the disestablished municipalities now incorporated in the Municipality are hereby repealed as far as they relate to matters provided for in this by-law.

70. Short title and commencement

This By-law is called the Integrated Waste Management By-law and commences on the date of publication in the North West Provincial Gazette.