

ANNEXURE B: CITY OF CAPE TOWN DRAFT INTEGRATED WASTE MANAGEMENT BY-LAW

To provide a set of regulations governing the avoidance, minimisation, generation, collection, cleaning and disposal of Waste; and for matters related thereto.

Preamble

The object of this By-law is to regulate and control the management of waste within the City of Cape Town's area of jurisdiction, in recognition of the fact that:

The City of Cape Town ("the City") has an obligation to regulate and control waste management so as to ensure a safe, healthy and sustainable environment and to ensure that the rights of individuals are protected; and

The City wishes to reduce the generation of Waste and the environmental impact of Waste so that the socio-economic development, the health of the people within the City's boundaries; and the quality of environmental resources are not unduly adversely affected by Waste; and

The City wants to ensure that all residents, organisations, businesses, visitors/tourists and government departments receive services from a legitimate Waste Management Service Provider; and

The City wishes to regulate Waste generation, cleaning, separation, storage, collection, processing, treatment, recycling, reuse and disposal of waste, including littering and illegal dumping and the regulation of facilities used for the management of waste, with the ultimate aim of avoiding the generation of waste and where it cannot be avoided, minimising waste, together with the management of all activities for different types of Waste to be collected, separated, diverted, processed, recycled and treated and disposed of at accredited waste management facilities as a last resort.

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1. **Definitions**

In this By-law, unless the context indicates to the contrary:

- 1.1 **"Accredited Waste Disposal Facility"** – means a site, or premises which is accredited by the Province of the Western Cape or the National Government and used for the accumulation of and/or Disposal of Waste;
- 1.2 **"Building Waste"** - means Waste produced through the construction, alteration, repair or demolition of any structure both manmade and natural, and includes rubble, earth, wood and rock that is displaced during any construction, alteration, repair or demolition, but excludes Garden Waste;
- 1.3 **"Business Waste"** - means Waste that emanates from premises that are used, whether lawfully or unlawfully mainly, for commercial, retail, wholesale, entertainment or government administration purposes,

and also applies to Waste generated by informal traders and residential premises where commercial activities are being conducted,

- 1.4 **"Director"** – means an employee of the Municipality who is in charge of its Waste Management function.
- 1.5 **"Dump"** – means to dispose of waste in any manner other than one permitted by law and includes, without derogating from the generality the foregoing, to deposit, discharge, spill or release waste, whether or not the waste is in a container or receptacle, in or at any place whatsoever whether publicly or privately owned, including but not limited to vacant land, rivers, waterways, catchments, and sewage and storm water systems. The act of "littering", which retains its ordinary meaning, is excluded from the definition of "dump";
- 1.6 **"Garden Waste"**- means organic waste which emanates from gardening or landscaping activities at residential, business or industrial properties including but not limited to, soil, grass cuttings, leaves and branches, and includes any biodegradable material and includes such waste emanating from residential, business or industrial properties. This definition excludes waste products of animal origin;
- 1.7 **"Hazardous Waste"** – means Health Care Risk Waste and any Waste that may, by circumstances of the production, use, quantity, concentration or inherent physical, chemical or toxicological characteristics thereof, have a significant adverse effect on the environment, or the health of a person or other living organism;
- 1.8 **"health care waste"** – means:
 - (1) any waste-
 - (a) generated by or derived from medical care or medical research; or

(b) that has been in contact with blood, bodily fluids or tissues from humans, or infected animals from veterinary practices;

(2) any waste under subparagraph (a), including but not limited to, the following categories of waste:

Infectious waste: Waste that is suspected to contain pathogens in a sufficient concentration or quantity to cause disease in susceptible hosts. This category includes cultures and stocks of infectious agents from laboratory work; waste from surgery and autopsies on corpses with infectious diseases; waste from infected patients in isolation wards; waste that has been in contact with infected patients undergoing haemodialysis; infected animals from laboratories; sanitary waste materials and tissues (including swabs) and any other instruments or materials that have been in contact with infected persons or materials.

Pathological waste: Includes all human tissues, organs, body parts, foetuses, blood and body fluids and those of infected animals.

Sharp waste: Includes items that could cause cuts or puncture wounds and includes, but is not limited to, needles, hypodermic needles, scalpels and other blades, knives, infusion sets, saws, broken glass and nails, and the word "sharps¹" has a corresponding meaning.

Pharmaceutical waste: Includes expired, unused, spilt and contaminated pharmaceutical products, drugs, vaccines and sera that are no longer required and that need to be disposed of appropriately.

Genotoxic waste: Is highly hazardous waste that may have mutagenic, teratogenic or carcinogenic properties. This waste type includes certain cytostatic drugs as well as vomit, urine or faeces from patients treated with cytostatic drugs, chemicals and radioactive material.

Chemical waste: Includes discarded solid, liquid and gaseous chemicals.

Waste with heavy metals: Includes, but is not limited to, mercury waste from thermometers, blood-pressure gauges, residues from dentistry;

cadmium waste from discarded batteries, reinforced wood panels used in radiation proofing, and drugs containing arsenic.

Pressurised container waste: Includes pressurised cylinders and cartridges used in health care facilities to store gases.

Radioactive waste: Includes solid, liquid and gaseous materials contaminated with radionuclides, including waste produced as a result of procedures such as *in vitro* analysis of body tissue and fluid, *in vivo* organ imaging and tumour localisation. and various investigative and therapeutic practices.

General waste: Is a generic term for waste that, because of its composition and characteristics, does not pose a significant risk to public health or the environment if managed properly. This waste type typically consists of plastics, paper, food and liquids not considered to be infectious or contaminated with hazardous chemicals or radioactivity.

- 1.9 **"Health care risk waste"** - means that portion of healthcare waste that is hazardous and includes infectious waste, pathological waste, sharp waste, pharmaceutical waste, genotoxic waste, chemical waste, waste with heavy metals, radioactive waste, and any other health care waste which is defined as hazardous in terms of the Waste Management Series: Document 1: *Minimum Requirements/or the Handling, Classification and Disposal of Hazardous Waste*, as published by the Department of Water Affairs and Forestry or any other applicable legislation;
- 1.10 **"Holders of Waste"** – means any person who imports, generates, stores, accumulates, transports, processes, treats, exports or disposes of Waste and also includes recyclers and scrap dealers;
- 1.11 **"Industrial Waste"**– means Waste that emanates from premises that are used wholly or mainly for industrial purposes and generate Waste through manufacturing, industrial or fabricating processes, including premises used for agricultural activities, mining activities or the

operation of power stations;

- 1.12 **"Integrated Waste Management Plan "** – means an Integrated Waste Management Plan which is required by the Municipality in terms of this By-law or that is required in terms of any other applicable legislation;
- 1.13 **"Littering"** – retains its ordinary meaning;
- 1.14 **"Municipality"** – means the City of Cape Town or its successors in title;
- 1.15 **"Owner"** – shall include, but not be limited to, the registered Owner, lessee or occupier of a premises, or the person in charge and/or control of any premises or part thereof who is over 16 years of age, and any person who obtains a benefit from the premises or is entitled thereto;
- 1.16 **"Person"** – includes any natural or juristic person and any organ of state;
- 1.17 **"Priority Waste"** – means Waste declared to be such by the Director in terms of this By-law or in terms of national or provincial legislation;
- 1.18 **"Recyclable Materials"** – means any material that can be converted into raw material that can be reused to make new products or resources;
- 1.19 **"Residential Waste"** – means Waste that emanates from premises used wholly or mainly for residential, educational, sport or recreational purposes and may include Recyclable Materials and non-recyclable material, but excludes Hazardous Waste;
- 1.20 **"Service Provider"** – means a person or entity accredited by the Municipality in accordance with its guidelines published from time to time and who provides a waste management service to the public and may include, but is not limited to, large and small business, entrepreneurs, community cooperatives, and venture learnerships;

- 1.21 **"Tariff Policy and Tariff By-Law "** - means the Tariff By-Law and Tariff Policy adopted by the Council of the Municipality and published in the Provincial Gazette from time to time;
- 1.22 **"Waste"** – means any matter, whether gaseous, liquid or solid or any combination thereof, which is from time to time designated by the National Minister of Environmental Affairs and Tourism by notice in the *Government Gazette* or by the member of the Executive Council of the Province of the Western Cape who is responsible for waste management in the Province of the Western Cape, as an undesirable or superfluous by-product, emission, residue or remainder of any process or activity as defined in the Environmental Conservation Act and amended in Government Notice 292 of 28 February 2003.
- 1.23 **"Waste Generator"** - means a household, organisation or business entity, the inhabitant(s), occupant(s) or employees of which generate Waste and includes sorters of waste such as recycling or waste minimisation groups, scrap dealers and buy-back centres;
- 1.24 **"Waste Management Officer"** – means an officer so appointed in terms of this By-law, or as required by national or provincial legislation;

2. **Conflicts with other legislation**

In the event of any conflict between any section of this By-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial Legislation, standards, policies or guidelines shall prevail.

3. **Application of this By-law**

The By-law shall be applicable to all visitors, tourists and any Person residing, operating or carrying on business within the Municipality's jurisdiction.

4. **Categorisation of Waste**

Waste shall be categorised in accordance with the definitions of the various types of Waste in this By-law, the Tariff By-Law and Tariff Policy and the

Environmental Health By-Law (insofar as it defines Medical Waste) and to the extent that it is unclear under which category a type of Waste falls, the decision of the Director shall be final and binding.

5. **Obligations of Waste Generators**

Waste generators are obliged:

- 5.1 To avoid the generation of Waste or where it cannot be avoided to minimise the toxicity and amounts of Waste generated.
- 5.2 To separate waste with the aim of minimising waste and its impacts and to store the recyclable waste separately from non recyclable waste. In the case of industrial waste they must ensure that the waste is separated into liquids, components and materials that can be treated for recycling or re-use.
- 5.3 To re-use, recycle or recover Waste where possible. The owner or Waste Generator shall dispose of recyclable waste either by (1) contracting with the Municipality and the owner will be charged at the Municipality's standard charge in terms of the Tariff By-law, or where the Municipality does not provide such a service (2) by contracting with an accredited Service Provider or (3) by delivering same to an accredited Waste disposal facility. **[Comment: Allows for recourse against the owner if the tenant fails to comply (consistent with Council's Debt Policy)]**
- 5.4 To ensure that it is treated or disposed of in an environmentally sensitive manner at an Accredited Waste Disposal Facility where Waste must be disposed of.
- 5.5 To manage Waste so that it does not endanger health or the environment or cause a nuisance.
- 5.6 To maintain suitable cleanliness and hygiene standards on their premises.
- 5.7 To make use of the Waste removal services provided by the Municipality and/or its service provider, unless the Municipality does not provide a Waste removal service for the type of waste to be disposed of, in which case they shall make use of an accredited Service Provider.

- 5.8 To conclude a contract with the Municipality, its service provider or an accredited service provider, as the case may be, for the storage and collection of Waste. If contracting with the Municipality the waste generator must complete and provide the municipality with a signed service application form and all documentation relating thereto.
- 5.9 To store waste in the containers provided by the Municipality and/or an accredited service provider prior to collection or where a container is not provided, store waste in black bags, which container and/or bags will be collected by the service provider at least once a week according to the routes as published by the Municipality or the service provider from time to time. **[Comment: All waste]**
- 5.10 To pay tariffs and rates charged by the Municipality for such Waste removal services according to the Municipality's Tariff-By-Law and Tariff Policy and if such charges are not paid, the Municipality may cease this service. The service will only be restored upon payment of the outstanding account. Arrears will be dealt with in terms of the Municipalities credit control and debt collection policy.
- 5.11 Should an additional Container be required, the Waste Generator may apply to the Waste Management Officer for the provision of same and shall be liable for the additional costs per the Municipality's Tariff-By-Law and Tariff Policy. The Waste Management Officer may require such a Person to submit an Integrated Waste Management Plan prior to agreeing to supply an additional Container. The owner and Waste Generator must comply with the terms and conditions set out by such Waste Management Officer for the generation, minimisation, storage, collection and disposal of such additional Waste.
- 5.12 Should the Waste generated by a Waste Generator exceed the volume that can be stored in the Container(s) provided or bags, the owner must make arrangements for the collection of the excess Waste by an accredited Service Provider. If such arrangement is not made the owner and/or Waste Generator must promptly transport that additional Waste to and deposit it at an accredited Waste Disposal Facility at his/her own cost.

- 5.13 The owners of formal dwellings who have other structures on their property with families living in these separate structures shall also be allocated one Container per additional structure by the Municipality and shall be entitled to have it collected on the same terms as the residential dwelling. The owner of the property will have to sign an additional contract with the Municipality for the storage, collection and disposal of such waste and shall be liable for the charges levied by the Municipality in connection therewith.
- 5.14 Indigent persons who qualify in terms of the Municipality's Solid Waste Tariff Policy as amended from time to time, and who are registered as indigent will receive a free or rebated Waste collection service for Residential Waste once a week from the Municipality. All the other provisions of this By-law shall apply to indigent persons.
- 5.15 Any business and/or agent disposing of waste on behalf of such businesses must give a report to the Municipality of the waste disposed at regular intervals as determined by the Director from time to time.
- 5.16 All owners and Waste Generators are responsible for maintaining suitable cleanliness and hygiene standards on their premises.
- 5.17 The Waste Generator generating Industrial Waste must contract with an accredited Service Provider for the collection of and Disposal of such Waste to an Accredited Waste Disposal Facility for the Disposal of Industrial Waste. The owner must on demand prove to the Waste Management Officer that he/she has entered into a suitable agreement with such accredited Service Provider for the collection, processing, treatment and/or Disposal of such Waste at least once per week or as determined by the Waste Management Officer.
- 5.18 Should such Industrial Waste be dangerous as defined by SANS 10228 and 10229 the accredited private sector Service Provider will similarly have to comply with all legislation relating to handling, transfer, storage, use, treatment and transportation of the dangerous goods and dispose of same at an Accredited Waste Disposal Facility or landfill site approved by the National or Provincial Government.

- 5.19 The Waste Generator generating Industrial Waste shall submit an Integrated Waste Management Plan to the Municipality and comply with the terms and conditions set out by the Municipality for the generation, minimisation, storage, recycling, collection and Disposal of such Waste.
- 5.20 Garden Waste generated at properties being used mainly for residential purposes may be composted on any property in accordance with the conditions and guidelines promulgated by the Municipality from time to time.
- 5.21 Garden Waste may not be stored in the containers provided by the Municipality for the storage of Residential or Business Waste.
- 5.22 Garden Waste must be stored in a compost heap or suitable bags that are either kept on the property until collection, or may be taken to an accredited waste disposal facility by the waste generator.
- 5.23 If the owner makes arrangements with the Municipality for the removal of same they are liable to pay the Municipality for this service in accordance with its charges in terms of the Municipality Tariff By-Law and Tariff Policy.
- 5.24 All Garden Waste that will not be composted must be bagged in suitable bags or tied in bundles. The length and cross section of which will be determined in terms of the Municipality's guidelines and conditions imposed from time to time.
- 5.25 In the case of garden waste disposed over a certain mass, as determined by the Municipality in terms of its guidelines and conditions imposed from time to time, the Waste Generator may be called upon to produce a weighbridge ticket as proof of proper disposal of such waste.
- 5.26 Any Person who directly or indirectly generates Building Waste and the owner of the property on which such building waste is generated shall remove same and dispose of it at an accredited crushing plant or landfill site or any other Accredited Building Waste Disposal Facility
- 5.27 Should Building or other Waste be Contaminated and the contamination agent is hazardous and/or dangerous, it must be deposited at an Accredited Waste Disposal Facility for the treatment and Disposal of

Hazardous Waste. **[Comment: This covers any contaminated waste and the correct/preferred procedure]**

- 5.28 The owner of the facility where building rubble is disposed of shall provide a monthly report to the Waste Management Officer of the mass of such waste deposited at such facility.
- 5.29 When plans are submitted to the Municipality for its approval in terms of the National Building Regulations and Building Standards Act, No 107 of 1977, the person submitting same must submit simultaneously therewith an Integrated Waste Management Plan to Municipality setting out what provision is being made for collection and Disposal of the Building and other Waste and the provision made to store the waste on their property or alternatively provide a permit to store same on the Municipalities property.
- 5.30 If no permit exists or can be produced to store such waste on the Municipalities land and the required permit has not been issue and the fee paid the waste generator and/or the owner of the property may be fined for failure to have a permit and given notice to remove the waste.
- 5.31 When the building control officer inspects the property where building works have been undertaken to check that it has been built in accordance with the approved plans, he/she shall also check if all building waste has been disposed of. The owner of the property will be required to provide such building officer with proof that it has disposed of the full mass of the building rubble at an accredited waste disposal facility for that category of waste prior to an occupancy certificate or any final approvals being granted. **[Comment: Proof being a weighbridge certificate]**

6. **Hazardous Waste**

- 6.1 A Waste Generator who generates Hazardous Waste and an owner of property where hazardous waste is generated must contract with an accredited Service Provider to collect and dispose of such Waste at an Accredited Hazardous Waste Disposal Facility licensed or permitted by National or Provincial legislation.

6.2 A person transporting the waste must ensure that the facility or place to which the waste is transported is authorised to accept such waste prior to offloading the waste from the vehicle.

7. **Event Waste**

7.1 Any Person who is directly or indirectly involved with the organisation, management of a sporting, entertainment, cultural or religious event which is to take place, on private or public property and/or owns or controls premises at which a sporting, entertainment, cultural or religious event is to take place, including, sports stadia and conference centres, must submit a Integrated Waste Management Plan to the Municipality in the standard form as published from time to time in respect of the storage, collection, recycling and disposal of Waste at and after such event at least five working days prior to the proposed event and comply with the terms and conditions set out by the Municipality. This must also include costing information and the organiser, management or owner will be liable to pay the cost of same.

7.2 Any Person who intends to generate Event Waste shall contract with an accredited Service Provider for the collection and Disposal of such Event Waste to an Accredited Waste Disposal Facility and provide proof of this to the Municipality as part of its Integrated Management Plan.

7.3 Should such Person fail or neglect to obtain such Waste Management Services prior to the Event in question, or fail to provide the Municipality with the Integrated Waste Management Plan or should there be waste left at the area where the event has been held or the surrounding area as a result of the event, the Municipality may arrange for the collection, clean-up, recycling and disposal of the Event Waste, the cost of such services shall be payable by the event organiser.

8. **Priority Waste**

Waste shall be categorised as Priority Waste by the Director in terms of this By-law if he or she reasonably believes that special measures are required in respect

of the management of that Waste because it poses a significant threat to health and/or the environment and/or it may persist in the environment and/or it contains or could foster pathogens of communicable diseases or it has been declared a Priority Waste in terms of other applicable legislation.

9. **Emergencies requiring the management of Waste**

If, in the opinion of the Director, there is an emergency requiring the management of Waste, the Municipality may call upon the owner of the property / waste generator to manage same within a stipulated period to the Municipality's satisfaction, or may arrange for this management, including clearing and cleaning of debris and pollution effects, transporting and disposing of the Waste at an accredited Waste Disposal Facility licensed for the specific type of Waste generated. The Municipality may also arrange, manage, and co-ordinate the rehabilitation and repair of any infra-structure, buildings, equipment or natural environment in this process. The cost of such management, rehabilitation and repair, including all costs incurred in the utilisation of the Municipality's resources, equipment and materials shall be for the account of the person responsible for the emergency. If such emergencies are created by an act of God and there is funding for same the Municipality will deal with such emergency in such manner as the circumstances may allow and depending on available funding.

10. **Establishment of formal Waste Minimisation clubs in communities or businesses**

Residential or business cluster developments and flat complexes may form Waste Minimisation clubs upon submission of proof in accordance with requirements determined from time to time that they are minimising and reducing waste and require a lesser service. They can apply for special dispensation as an enhanced service to the Director as defined in the Tariff By-Law and Tariff Policy. The Director shall in his/her discretion determine whether to approve the waste minimisation clubs application for special dispensation. They must submit an Integrated Waste Management Plan to the Director and if approved as such by the Director, must comply with the terms and conditions set out by the Director for the generation, minimisation, storage, collection and disposal of such Waste.

11. **Appointment of Waste Management Officer**

The Director will be appointed as the Council's Waste Management Officer and he shall delegate to one or more Waste Management Officers to co-ordinate matters pertaining to Waste Management in the Municipality.

Waste Management Officers shall have the powers and functions as set out in this By-Law and in accordance with the Municipality's system of delegations as determined from time to time by Provincial or National legislation.

12. **Integrated Waste Management Plan**

An Integrated Waste Management Plan must be submitted by the Waste Generators listed in Paragraphs 15.9.1 to 15.9.10 below, to the Waste Management Officer for approval in writing, prior to the generation of the Waste to be dealt with in terms of the said Plan.

An Integrated Waste Management Plan shall include:

- 12.1 an assessment of the quantity and type of Waste that will be generated;
- 12.2 a description of the services required to store, collect, transport and dispose of such Waste;
- 12.3 a description of how they intend separating recyclable and non-recyclable material at the source;
- 12.4 the Waste Minimisation and pollution prevention plans of such Waste Generator;
- 12.5 the impact or potential impact on the environment of the Waste created by them;
- 12.6 the type or characteristics of Waste produced of an environmentally sensitive nature, and/or the amount of natural resources that are consumed in the manufacturing or production process that result in Waste;
- 12.7 targets for Waste production through Waste Minimisation, reuse,

recycling and recovery measures or programmes that can minimise the consumption of natural resources and the method Disposal of Waste;

12.8 industrial entities shall include in such a plan measures or actions to be taken to manage Waste, the phasing out of the use of certain substances, opportunities for reduction of Waste generation through changes to product design, product production or packaging to reduce resource consumption;

12.9 industrial and business entities must provide for marketing and sales of purchase emerging to influence customer perception and behaviour and accepting products back from recycling;

When requested to submit an Integrated Waste Management Plan or a further Integrated Waste Management Plan in terms of this By-law, a Waste Generator shall do so within the time stipulated by the Municipality and comply with the terms and conditions set out by such Waste Management Officer for the generation, minimisation, storage, collection and disposal of such Waste.

The Waste Management Officer must consider the plan and either:

1. approve it with conditions and give directions for the implementation thereof; and/or
2. request that additional information be furnished and/or a revised plan be submitted for approval; and/or
3. require amendments to be made within a time frame so specified by them; or
4. reject the plan; and
5. when approving such plan the Waste Management Officer may specify conditions pertaining to such approval.

If such plan is rejected or not submitted at all, the Waste Management Officer shall give directives as to what Waste Management measures must be taken by the Waste Generator and should the Waste Generator fail to take such measures within the time frame specified by the Waste Management Officer, the

Municipality may implement such measures and the Waste Generator will be liable for the cost thereof.

The Municipality may by written notice require any person to provide such information as it requires in order to prepare the Municipality's Integrated Waste Management Plan. Should a person fail to provide same, the Municipality may appoint an auditor to obtain such information at the Waste Generator's cost.

The waste generators of the following classes of waste must submit an integrated waste management plan:

- 12.9.1 business waste, if the volume exceeds one container or hazardous waste is generated, and the Waste Management Officer requires same
- 12.9.2 industrial waste
- 12.9.3 building waste
- 12.9.4 event waste
- 12.9.5 priority waste
- 12.9.6 hazardous waste
- 12.9.7 those applying for special dispensation in terms of clause 13;
- 12.9.8 those who sort waste or undertake a recycling, reuse or waste recovery activity including but not limited to scrap dealers, recycling groups and buy back centres;
- 12.9.9 any other Person who is given notice to do so by the Waste Management Officer.
- 12.9.10 those persons carrying out the activities listed in Paragraph 19.

Any Waste Generator required to do so in terms of this By-Law, who fails to submit or comply with a Waste Management Plan shall be guilty of an offence.

13. **Exemptions from submitting a Waste Management Plan**

- 13.1 If one of the waste generators for the categories of waste referred to in paragraph 15 above wishes to be exempt from submitting a waste

management plan, an application must be made in writing to the Waste Management Officer, stipulating reasons for the application.

- 13.2 A Waste Management Officer may also declare certain types of waste or waste generators and/or a particular mass or volume of waste to be exempt from the submission of a waste management plan. Those persons who have submitted such a plan to the other spheres of government in terms of their applicable legislation.

14. **Storage and Transport of Waste**

Any Holder of Waste who stores or transports Waste must ensure that:

- 14.1 the Containers in which any Waste is stored are intact and not corroded or in any other way rendered unfit for the safe storage of Waste if the waste is not in a container provided by the Municipality.
- 14.2 suitable measures are in place to prevent accidental spillage or leaking;
- 14.3 that the Waste cannot be blown away;
- 14.4 nuisances such as odour, visual impacts and breeding of vectors do not arise;
- 14.5 pollution of the environment and harm to health are prevented;
- 14.6 Hazardous Waste is sealed in an impervious Container and suitable measures to prevent tampering are in place;
- 14.7 To ensure that any waste items/substances are safe for handling, collection and/or disposal and cannot be harmful to persons when accessed by unauthorised persons or members of the public.

15. **Collection of Waste**

No person may remove Waste which is to be collected by the Municipality or an accredited Service Provider in terms of this By-Law.

The person disposing of waste on behalf of a waste generator does so as the agent of such waste generator.

16. **Recycling, reuse, sorting and recovery of Waste**

- 16.1 Any person who undertakes a recycling, reuse or recovery activity or who sorts waste, including but not limited to scrap dealers, buy back centres and formalised recycling groups, must, before undertaking that activity make sure by way of an Environmental Impact Assessment or similar procedure required by the Provincial authority, that the recycling, reuse or recovery of the Waste is less harmful to the environment than its Disposal and must obtain a licence from the Municipality in terms of their guidelines as published from time to time. (Comment: the issue of licenses may have to be revisited should National Legislation regulate this issue.) Such person must also submit an Integrated Waste Management Plan. In deciding whether to grant such authorisation, the Waste Management Officer will consider the Integrated Waste Management Plan.
- 16.2 Any person who undertakes a recycling, reuse, processing, treatment or recovery activity or who sorts waste, including but not limited to scrap dealers, buy back centres and formalised recycling groups, must register for accreditation with the municipality that will entitle them to perform such activities.
- 16.3 Persons and entities that handle, transport, process, treat and dispose of Waste for recycling purposes shall provide the Municipality with a written report in a format to be approved by the Director on or before the 7th of each month. The waste management officer may exempt certain waste generators, handlers, transporters or agents of waste from such requirements.

17. **Prohibition of unauthorised Disposal of Waste**

- 17.1 No person may dispose of Waste in a manner likely to cause pollution of the environment or to be harmful to human health.
- 17.2 No person may dispose of Waste other than in accordance with this By-law and/or National and Provincial legislation.
- 17.3 No Hazardous Waste may be disposed of in a Municipal Container designed for the storage of Residential or Business Waste or in bags

to be collected by the Municipality

- 17.4 No person may burn Waste especially Hazardous Waste except in approved incinerators which have a permit or licence to do so.
- 17.5 No person may dispose of Hazardous Waste, unless in accordance with an approved Integrated Management Plan,
- 17.6 No person may deposit Residential, Business, Industrial, Garden, Building, Events or Hazardous Waste in a public bin,
- 17.7 No person may deal with Waste in a manner that causes dust, spillage or litter.

18. **Littering and Dumping**

- 18.1 No person may drop, throw, deposit, spill or in any other way discard any litter into or onto any public place, municipal drain, land, vacant erf, stream, water course, street, road, coastline or on any place to which the public has access, or otherwise dispose of it nor may they allow a person under their control to do so.
- 18.2 The owner of private land to which the public has access must ensure that sufficient containers or places are provided to contain litter which is discarded by the public.
- 18.3 If the provisions of subsection (1) are contravened, the Municipality may direct, by way of a written notice to persons that they cease the contravention in a specified time, they prevent a further contravention or the continuation of the contravention, and take whatever the Municipality considers necessary to clean up or remove the waste, to rehabilitate the affected facets of the environment and to ensure that the waste and any contaminated material which cannot be cleaned or rehabilitated is disposed of lawfully. A written notice shall provided the offender with a maximum of 5 working days to the remove the waste and/or litter dumped. The municipality may in its discretion grant a further 2 days on request for the offender to remove the litter/waste.
- 18.4 A person who owns land or premises, or who is in control of or has a

right to use land or premises, may not use or permit the use of the land or premises for unlawful dumping of waste and must take reasonable steps to prevent the use of the land or premises for that purpose.

18.5 If the municipality elects to remove the waste/litter the offender shall be liable for the cost of such removal operation.

18.6 In the case of hazardous waste the Municipality shall immediately remove same and thereafter issue notices that the offender is liable to pay the fine imposed and the cost of the removal and rehabilitation of the area. In addition the court may in serious cases and with repeat offenders issue a larger fine or order longer imprisonment and give an order that the offender pay the cost of removal and the cost for rehabilitation of the area.

19. **Licences**

All Person or entities that require licenses in terms of national, provisional or municipal legislation will have to prove on request, to the Waste Management Officer that they have the appropriate licenses within 30 days or such lesser period as specified by such officer.

20. **Accredited Waste Management Service Provider and Registration of persons using a service providers waste removal services**

[Barry to provide further instructions to make the process clearer]

20.1 Any private contractor, municipal entity or private sector waste management Service Provider can only provide a service that the Municipality has elected not to provide and can only do so after having been accredited by the Municipality in accordance with conditions and standards set by the Municipality as set out in the guidelines published by the Municipality from time to time.

20.2 The Municipality shall keep an updated register of all Service

providers

20.3 Commercial and industrial undertakings (including scrap dealers) requiring a Waste removal service, which is not provided by the Municipality must register with the Municipality that they have contracted with a service provider for such service.

20.4 The Municipality and/or its Service provider and/or an accredited service provider or others disposing of waste on behalf of a waste generator will act as their agent in so doing.

21. **Access to private properties**

21.1 Any owner shall allow a peace officer or any other duly authorised employee of the Municipality authorised to their property for the purpose of inspecting same to ensure compliance with this by law or in order to enforce same. Such peace officer shall be appointed as such in terms of Government Notice R209 dated 19 February 2007.

21.2 When entering the property the authorised employee must, on request, identify him / herself by producing written proof of such authority.

21.3 Such employee may be accompanied by a person reasonably required to assist in conducting the investigation who must also identify himself/herself.

22. **Premises inaccessible for refuse collection**

Should the Municipality be impeded from handling or collection of refuse due to the layout of a person's premises and if in the opinion of the Waste Management Officers, this impediment causes a danger to Persons or property the Municipality may require the Owner to do such alterations or additions to the premises as are necessary to remove such impediment at that persons cost.

23. **Notices to comply and Municipality fulfilling Waste Generators obligation**

23.1 The Waste Management Officer may issue notices to any person contravening the provisions of this By-Law:

- 23.1.1 setting out the provisions or conditions contravened;
 - 23.1.2 giving directions;
 - 23.1.3 compelling persons to comply with their obligations under this By-Law;
 - 23.1.4 setting out the measures to be taken to rectify the contravention and the period in which they must do so;
 - 23.1.5 for any other purpose under this By-Law, and may, in the notice specify a reasonable time for complying with the directions in the notice.
- 23.2 In addition to the steps set out in the by-law and any fines imposed ,if a person fails to comply with directions given in a notice issued by the Waste Management Officer or Municipality, the Municipality may itself take whatever steps it considers necessary to clean up or remove waste, to rehabilitate the premises or place and affected the environment at which the waste has been dumped or illegally stored and to ensure that the waste, and any contaminated materials which cannot be removed, cleaned or rehabilitated, is disposed of lawfully. The Municipality may recover the costs of taking these steps from any of the persons obliged to take such steps in terms of this By-Law, who shall be jointly and severally liable therefore. In the event that the waste is hazardous or priority waste the Municipality may require the businesses generating same to close until such time as the steps are taken to dispose of the waste lawfully if there is a real threat of damage or injury to persons or property.
- 23.3 The costs claimed under this section may include, but are not limited to, labour, administrative, materials, transport costs, investigation and prosecution costs.
- 23.4 The following persons may be served with such notice:
- 23.4.1 Any person who committed, or who directly or indirectly caused the contravention to be permitted;

- 23.4.2 The generator of the waste, whether or not the generator is responsible for the contravention;
- 23.4.3 The owner of the land or premises where the contravention took place, if the owner failed to take the steps set out in the By-Law;
- 23.4.4 The person in control of, or any person who has or had, at that stage of the contravention, a right to use the land or premises where contravention took place, if that person failed to take the steps set out in the By-Law;
- 23.4.5 Any person who negligently failed to prevent the contravention taking place.

23.5

24. **Service of documents and process**

Whenever any notice, order, demand or other document is authorised or required to be served on a person in terms of the by-law, it shall be deemed to have been effectively and sufficiently served on such a person:

- (a) when it has been delivered to him personally;
- (b) when it has been left at his place of residence or business in the Republic with a person apparently over the age of 16 years;
- (c) when it has been posted by registered or certified mail to his last known residential or business address in the Republic and an acknowledgement of posting thereof is produced;
- (d) if his address in the Republic is unknown, when it has been served on his agent or representative in the Republic in a manner provided by paragraph (a), (b) or (c); or
- (e) if his address and agent in the Republic are unknown, when it has been posted in a conspicuous place on the immovable property (if any) to which it relates.

25. **Failure to comply with the By-law and enforcement**

- 25.1 If the Waste Management Officer has issued a notice to anyone for contravening any provision of this By-law and such Person fails to comply with such notice he/she will be guilty of an offence.
- 25.2 The Waste Management Officer may in writing require any person to submit a report to him in respect of the impact of Waste in a specified form as stipulated in the Municipality's guidelines as published from time to time.
- 25.3 If the person fails to submit such a report within the period specified, the Waste Management Officer may appoint an independent person to compile the report and recover the costs of compiling the report from the person required to submit it. If he or she suspects that the person has on one or more occasion contravened or failed to comply with the By-law or a license issued in terms of the Provincial or National Legislation and this has had a detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage or has contributed to the degradation of the environment, the Waste Management Officer may direct that such a report be compiled by an independent person.
- 25.4 The Waste Management Officer may then direct the person who failed to comply with the By-Law to take the action recommended in such report, failing which the Municipality may do so, and the person who contravened the By-Law shall be liable for the cost thereof.

26. **Offences**

- 26.1 A person who contravenes any of the provisions of this By-law shall be guilty of an offence.
- 26.2 Should any person by improper or illegal means induce, influence, persuade or force an employee of the Municipality or other person to commit an offence in terms of this by-law they shall be guilty of an offence.
- 26.3 Should any person by improper or illegal means induce, influence, persuade or force an employee of the Municipality or other person to

commit an offence in terms of this by-law or do so themselves by inducing employees of the Municipality to collect and dispose of waste without the correct payment to the council or the correct methods being employed.

27. **Penalties**

27.1 Any person convicted of an offence of Littering or Dumping in terms of this By-law shall on conviction be liable for:

27.1.1 a fine of a minimum of R500 up to a maximum of R1,000.00 for litter under 1m³;

27.1.2 a fine of a minimum of R1000 up to a maximum of R10,000.00 from 1m³ to 10m³;

27.1.3 a fine for over 10m³ of waste or at the court's discretion in terms of Section 300 of the Criminal Procedures Act the court may impose a fine and sentence and order the removal of such waste and the payment of the expenses in respect thereof or any other costs;

27.1.4 a fine for dumping of hazardous waste and the court may, in terms of Section 300 of the Criminal Procedure Act, impose a fine and/or sentence and determine what measures are to be taken by the accused and to the payment for which they are liable for the removal thereof and the rehabilitation of the area;

27.1.5 no admission of guilt is acceptable in respect of a repeated offence of littering and dumping, but in terms of Section 300 of the Criminal Procedure Act the court will impose a fine and sentence and stipulate whether he removes same or pays for the cost thereof and rehabilitates the area or pays the cost of doing so.

27.1.6 Any person who conveys an uncovered load which results in spillage of the load will be liable for a fine of R500 and the cost of clearing the spillage and rehabilitating the area.

- 27.1.7 Any person who conveys an unsecured load which results in spillage of the load will be liable for a fine of R1500 and the cost of clearing the spillage and rehabilitating the area.
- 27.2 Any person convicted of any other offence in terms of this By-law shall on conviction be liable for:
- 27.2.1 the payment of a minimum fine of R500 and a maximum fine not exceeding R10 000 or imprisonment for a minimum period of 6 months and maximum period not exceeding 2 years, or to both a fine and such imprisonment save as provided for in paragraph 27.2.2 or 27.2.3 .
- 27.2.2 should it be that person's first offence and the impact or potential impact on health, wellbeing, safety and the environment was nominal, the court may impose a sentence of community service in place of a fine or imprisonment.
- 27.2.3 should it be a serious offence and the impact or potential impact on health, wellbeing, safety and the environment was serious, the court may impose a larger fine or longer period of imprisonment.
- 27.2.4 should there be repeat offences and/or the impact or potential impact on health, wellbeing, safety and the environment was serious , the court may impose a longer sentence or larger fine.
- 27.2.5 should the offence be committed by a large commercial or industrial entity and the fines above be too light for such entity the court may impose a longer sentence or larger fine appropriate to the specific incident. .

The Court may, when considering sentence, take into account the following:

- (1) that a convicted person delayed in complying with or failed to comply with the terms of notices or directions given to that person under this by-law.

- (2) That person obtained a financial advantage or was to obtain a financial advantage as a result of the commission of the offence.
- (3) The severity of the offence in terms of its impact or potential impact on health, wellbeing, public safety and the environment.

Persons convicted of an offence under this by-law which caused damage to or loss of property and/or which has had an adverse impact on the environment then, in addition to any other sentence imposed, the Court may:

- 27.3 If the property belongs to another person, and on the application of the injured person, the prosecutor acting on instruction of the injured person will ask the court to order the convicted person to pay the person compensation for damage or loss in accordance with Section 300 of the Criminal Procedure Act 51 of 1977;
- 27.4 Order the convicted person to, at his/her cost and to the satisfaction of the Municipality, repair the damage and/or make good the loss and/or rehabilitate the environment;
- 27.5 If the person is convicted of an offence under this by-law, the Court may, in addition to any other punishment which it imposes, order the convicted person to comply, within a period determined by the Court, with the relevant provisions of this by-law or, where applicable, with the relevant provisions of any notice issued in terms of this By-Law;
- 27.6 If a manager, agent or employee of a business does or omits to do an act which was his/her task to do or refrain from doing and which is an offence under this by-law, for the employer to do or refrain from doing and the act or omission of the manager, agent or employee took place because the employer failed to take reasonable steps to prevent the act or omission, then the employer is guilty of an offence. Proof of the act or omission by the manager, agent, or employee is *prima facie* evidence that the employer is guilty in terms of the subsection. No penalty other than a fine shall be imposed, if a conviction is based on this subsection.

28. **Delegations and Law Enforcement function**

28.1 The Director and Waste Management Officer shall be entitled to delegate to any official of the Municipality or third party any of their powers or obligations in terms of this By-law.

28.2 Any peace officer or an employee of the Municipality delegated to power to enforce the provisions of this by-law or who during the course of their duties, enforces this or other by-laws shall be entitled to enforce this by-law.

29. **Amendments to Waste removal services**

The Municipality may amend any existing Waste removal or cleansing services once a process of public notification, participation and comment has been completed and provided the amendment is practical, cost effective and has its objective the prevention of the proliferation of Waste, the minimisation of Waste and/or the reduction of Waste to be removed.

30. **Transitional provisions**

Any approvals given in accordance with previous By-laws will be valid in respect of the premises for which they were granted and in respect of the person to whom they were granted, but cannot be transferred.

31. **Repeal of previous By-laws**

The By-laws in Schedule A hereto are hereby repealed.

32. **Interpretation**

In the event of a conflict between English, Xhosa and Afrikaans versions of this By-law, the English version shall be decisive.

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