

**City of Tshwane Metropolitan Municipality:
Waste Management By-law**

The City Manager of the City of Tshwane Metropolitan Municipality hereby publishes in terms of section 7 of the Gauteng Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998), read with section 13 of the Local Government: Municipal System Act, 2000 (Act 32 of 2000), and section 162 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996); and section 9 *et al* of the National Environmental Management: Waste Act, 2008 (Act 59 of 2008) the City of Tshwane Metropolitan Municipality: Waste Management By-law, as approved by Council on 30 June 2016

The said By-law will come into operation on date of publication hereof in the Provincial Gazette.

**JASON NGOBENI
CITY MANAGER**

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Notice

**CITY OF TSHWANE METROPOLITAN MUNICIPALITY:
WASTE MANAGEMENT BY-LAW**

To regulate and provide for waste management services including collection and disposal of solid and all other forms of waste; to ensure that all practices concerning waste management are aligned to the Constitution of the Republic of South Africa, 1996, the National Environmental Management: Waste Act, 2008 and the Local Government: Municipal Systems Act, 2000 and in general to provide for mechanisms; forms; practices and procedures and matters incidental thereto to ensure a sustainable safe and healthy environment within the City of Tshwane jurisdictional area.

PREAMBLE

WHEREAS the Municipality has the constitutional obligation to provide services, including refuse removal, collection and disposal;

AND WHEREAS poor waste management practices can have an adverse impact on the environment in and beyond the municipal boundaries;

AND WHEREAS the Municipality” is committed to ensure that all residents, organisations, institutions, businesses, visitors or tourists, and public bodies are able to access services from a legitimate waste service provider;

AND WHEREAS the Municipality wishes to regulate waste collection, separation, storage, 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 or minimising the generation and impact of waste;

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

BE IT THEREFORE ENACTED by the Metropolitan City Council of Tshwane as follows:-

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DEFINITIONS

In these by-laws, unless the context indicates otherwise –

“adjustment of Fines Act, 1991” means the Adjustment of fines Act, 1991 (Act 101 of 1991), as amended

“approved” means approved by the Council in terms of the provisions of section 160 of the Constitution; 1996 read with section 12 of the Systems Act, 2000 (Act 32 of 2000);

“authorised service provider” means the Municipal administration and its’ officials or a private waste removal service provider who is contracted by the Municipality to provide waste removal services on its behalf.

“authorised official” means any official of the Council who authorised or designated in terms of the Council’s policy to administer or delegation by the Waste Management Officer, implement and enforce any of the provisions of these By-laws, or an employee of a service provider acting within the scope of the powers, functions, duties and obligations assigned to that service provider by the Council or the Waste Management Officer, In terms of it’s contractual appointment;

“builder’s waste” means waste generated by demolition, excavation or building activities on premises and **“builder’s rubble”** has a similar meaning;

“bulk container” means a container having a capacity greater than 2 m³ for the temporary storage of waste in terms of this by-law;

“bulky waste” means waste which cannot by virtue of its mass, shape, size or quantity be conveniently stored or handled in a waste container, but does not include builder’s waste or special domestic waste;

“businesses Act, 1991” means the Businesses Act, 1991 (Act 71 of 1991),

“business waste” means waste which is generated on premises, other than domestic waste, builder’s waste, bulky waste, industrial waste, special domestic waste, garden waste and special industrial waste, and which can be removed easily without damage to the waste container, bulk container or waste removal vehicle;

“Council” means the City of Tshwane Metropolitan Council as described in section 157 as a Category A metropolitan municipality referred to in section 155 of the Constitution, 1996; and established in terms of section 12 of the Structures Act, 1998;

“Constitution, 1996” means the Constitution of the Republic of South Africa, 1996;

“Criminal Procedures Act, 1977” means the Criminal Procedures Act, 1977 (Act 51 of 1977), as amended;

“disposal site” means an area set aside by the Municipality, excluding a garden waste site, for the disposal of waste other than hazardous or medical waste but includes permitted private waste disposal facility;

“domestic waste” means waste generated on premises used solely for residential purposes and purposes of public worship or education, including halls or other buildings used for religious or educational; social gatherings or festival purposes, but does not include builder’s waste, bulky waste, garden waste or special domestic waste;

“environmental management inspector” means a person designated as an environmental management inspector in terms of sections 31B or 31C of the National Environmental Management Act, 1998; as amended

“Fire Brigade Services Act, 1987” means the Fire Brigade Services Act, 1987 (**Act 99 of 1987**); as amended;

“garden waste” means waste generated as a result of normal gardening or landscaping activities, such as grass cuttings, leaves, plants, flowers and other similar small and light matter of organic origin;

“garden waste site” means a site provided by the Municipality for the disposal and temporary storage of garden waste and other miscellaneous waste other than hazardous waste at the discretion of the Municipality;

“Hazardous Substances Act, 1973” means the Hazardous Substances Act 1973 (Act 15 of 1973), as amended

“hazardous waste” means waste which contains or is contaminated by poison, a corrosive agent, a flammable substance having an open flashpoint of less than 100°C, an explosive, radioactive material, a chemical or any other substance that is classified as a hazardous substance in terms of the Hazardous Substances Act, 1973 (Act 15 of 1973), or in terms of the National Road Traffic Act, 1996 (Act 93 of 1996);

“Health Act, 1977” means the Health Act, 1977 (**Act 63 of 1977**), as amended

“health care risk waste” means waste capable of producing any disease and includes, but is not limited to the following: laboratory waste; pathological waste; isolation waste; genotoxic waste; infectious liquids and infectious waste; sharps waste; chemical waste; and pharmaceutical waste.

“illegal dumping” means waste that has been left at a place with the intention of abandoning it, such waste as builder’s rubble and any other material that may create a nuisance or that is unsightly and detrimental to the environment;

“industrial waste” means waste generated as a result of manufacturing, maintenance, fabricating and dismantling activities and the activities of railway marshalling yards, but does not include builder’s waste, business waste, special industrial waste or domestic waste;

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

“metro police officer” means an officer as defined in section 64F and 64G of the South African Police Service Act, 1995 (Act No 68 of 1995), as amended;

“municipality” means the City of Tshwane Metropolitan Municipality established by General Notice 6770 in Provincial Gazette Extraordinary 141 of 1 October 2000 in terms of the provisions of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), and promulgated in terms of Section 12(1) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) as amended, and its successors in law as amended from time to time and/or title and/or its assigns, and **“City”** and **“municipal”** has a corresponding meaning and includes those persons authorised in terms of the Municipality’s policies to exercise any of the powers of these By-laws;

“municipal notice” means an official notice published by the Municipality under the signature of the Executive Mayor after approval by the municipal Council;

“municipal waste management officer” means an official appointed as such by the Municipality and as peace officer and who is entrusted to execute any of the powers provided for in this by-law;

“National Environmental Management Waste Act, 2008” means the National Environmental Management Waste Act, 1998 (Act 59 of 2008), as amended;

“National Road Traffic Act, 1996” means the National Road Traffic Act, 1996 (Act 93 of 1996), as amended;

“nuisance” has the meaning assigned to it in section 2 of the Local Government Ordinance, 1939 (Ordinance 17 of 1939);

“Occupational Health and Safety Act, 1993” means the Occupational Health and Safety Act, 1993 (Act 85 of 1993), as amended

“occupier”, in relation to premises, means any person, including the owner, in actual occupation of the premises without regard to the title under which he or she occupies the premises, and, in the case of premises subdivided and let to lodgers or tenants, includes the person receiving the rent payable by the lodgers or tenants, whether for his or her own account or as an agent for a person entitled to the rent or with any interest in the rent and in the event where the identity of the occupier is unbeknown to the Municipality, the owner shall for purposes of this By-law be deemed to be the occupier;

“owner”, means the registered owner of the premises concerned and in relation to premises the same, includes any person who receives the rent or profits of the premises from any tenant or occupier of the premises or who would receive the rent or profits if the premises were let, whether for his or her own account or as an agent for any person entitled to the rent or profits or with an interest in the rent or profits, provided that **“owner”**, in respect of premises in a sectional title scheme in terms of the Sectional Titles Act, 1986 (Act 95 of 1986), including the body corporate as defined in that Act in relation to such premises, and **“owner”**, in respect of premises that are the property of the Municipality and are let by the Municipality, means the lessee of the premises ;

“peace officer” in relation to an official entrusted with administering and enforcement of the provisions of this By-law means such person and who is appointed as peace officer in terms of section 334 of the Criminal Procedures Act, 1977 as amended;

“permit holder” a private service provider who has submitted the information required in Schedule 1 of this by-law to the Municipality and who is in possession of a written confirmation and carries on his person a positive identification name tag or card, as the case may be, issued by the Municipality that the particulars of such service provider were registered in the Municipality’s register of private service providers and who are authorised to provide waste removal services in the area of jurisdiction of the Municipality in terms of a written permit issued by the Municipality;

“person” means a natural person but includes a juristic person in terms of the common law or incorporated in terms of the provisions of the Companies Act, 2008 (Act 71 of 2008), as amended or any other legislation;

“premises” means any erf or land, building, room, structure, tent, van, vehicle, stream, lake, dam, pool, lagoon, drain or ditch (open, covered or enclosed), whether built on or not and whether public or private and **“property”** has a similar meaning;

“public place” has the meaning assigned to it in section 2 of the Local Government Ordinance, 1939 (Ordinance 17 of 1939); and includes any road, place or thoroughfare however created which is in the undisturbed use of the public or which the public have the right of use or to which the public has reasonable access but excludes private dominium

“recyclable” means any material intended for recycling or a remanufacture process and which was never part of the waste stream at the point of removal, but was managed as a potential resource by the originator of such material and never contaminated with any other material;

“recycling” means the collection, selection or removal of waste for the purpose of reselling or reusing selected materials in a manufacturing or other process

“road reserve” means the verge and the roadway of a public road as defined in the National Road Traffic Act, 1996 (Act 93 of 1996);

“service provider” means private firms who contract directly with occupiers for the removal of waste;

“special domestic waste” means waste which is discarded from premises used for residential purposes and which cannot by virtue of its mass, shape or size be conveniently stored in a waste container;

“special industrial waste” means waste which consists of a liquid or sludge resulting from a manufacturing process or the pre-treatment, for disposal purposes, or any industrial or mining liquid waste and which in terms of the Municipality’s Sanitation By-law may not be discharged into a drain or sewer;

“Structures Act, 1998” means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), as amended;

“Systems Act, 2000” means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), as amended;

“swill” means food residues fit for use as animal food in terms of the applicable statutory requirements;

“tariff” means the prescribed charge determined by the Municipality in terms of any applicable legislation for any service rendered by the Municipality in terms of this by-law;

“waste” means domestic waste, special domestic waste, business waste, garden waste, builder’s waste, industrial waste, special industrial waste, medical waste, bulky waste or hazardous waste, and includes any material or object deemed in terms of Chapter 8 to be abandoned, unwanted or unused;

“waste container” means a waste container supplied by the Municipality to premises as provided for in section 4 or approved by the Municipality in exceptional cases;

“Waste Management Officer” means a waste management officer designated in terms of section 10(3) of the National Environmental Management: Waste Act, 2008 (Act 59 of 2008);

“waste removal service” means the collection and removal of domestic, garden, industrial and business waste as provided for in section 6(1) and may include garden waste;

“waste stream” means all material which was regarded as “waste” by an occupier/owner and disposed into a waste container for removal and disposal by the Municipality.

“Waste Tyre Regulations, 2009” means the Waste Tyre Regulations, 2009 provided for under Government Notice R. 149 published in Government Gazette No. 31901, Vol. 524 of 13 February 2009, as amended;

CHAPTER 1

PRINCIPLES, SEPARATION OF WASTE AND RESPONSIBILITIES

1. Principles

- (1) Any person exercising a power in accordance with this by-law must at all times strive to promote the waste management hierarchy approach as outlined in the National Environmental Management: Waste Act, 2008 (Act 59 of 2008) and the National Waste Management Strategy, which promote waste avoidance and minimisation, waste reuse, salvaging, recycling and recovery, waste treatment and disposal.
- (2) This by-law seeks to promote sustainable development and environmental justice through fair and reasonable measures for the management of waste in the Municipality's jurisdiction.
- (3) This by-law promotes the participation of all municipal residents in the promotion of responsible citizenship by ensuring sound waste management practices in residential, commercial and industrial environments.
- (4) The provision of cleansing, refuse removal, refuse dumps and solid waste disposal is the function of a municipality in terms of Part B of Schedule 5 of the Constitution of the Republic of South Africa
- (5) Other than the municipal administration/ business unit or an external service provider that is appointed by the municipality in terms of Section 78 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), where the municipal Council has decided to make use of an external mechanism for services provision, the occupier of premises shall not make use of waste removal services of any other entity whatsoever.

2. Waste separation

- (1) The following categories of waste shall be separated and disposed of separately from each other
 - a. Builder's rubble
 - b. Garden refuse
 - c. Industrial waste
 - d. Hazardous waste
 - e. General waste
- (2) Where the municipality is implementing separate collection of recyclable and non-recyclable domestic and business waste, it is the responsibility of the premises that are generating waste to separate recyclable and non-recyclable waste into different containers.
- (3) The following are considered recyclable material from domestic and business waste
 - a. Paper and cardboard
 - b. Plastic
 - c. Glass
 - d. Tin
 - e. Tyers
- (4) The municipality may provide separate containers for recyclable and non-recyclable domestic and business waste where it is implementing separated waste collection
- (5) All businesses and institutions with a minimum average of 20 people active in their premises, including workplaces within the boundaries of the Municipality, shall be required to have a waste minimisation plan to be approved by the Municipality.

3. Responsibilities

- (1) The Municipality shall provide or ensure a service for the collection and removal of business waste and domestic waste from a premises at the applicable tariff.
- (2) Subject to the provisions of this by-law, the occupier of premises must keep the premises free of any waste and, subject to the provisions of section 7 (1)(a).
- (3) The occupier of premises on which business or domestic waste is generated is liable to the Municipality for payment of the applicable tariff in respect of the collection, removal and disposal of business or domestic waste from the premises and remains liable for payment of the tariff until registration of transfer of the premises in the name of a new owner has taken place
- (4) In the event of severe weather conditions or unusually large waste volumes, the Municipality may extend collection days to include the day after or beyond the regularly scheduled collection day.
- (5) The occupier of premises on which business or domestic waste is generated must, within seven days after the commencement or alteration of services or generation of such waste, notify the Municipality in writing –
 - (a) that the premises are being occupied; and
 - (b) that business or domestic waste is being generated on the premises.
- (6) The owner of the property or premises must within twenty eight days after receiving an account statement for service fees in respect of collection, removal and disposal of business or domestic waste from the premises, notify the Municipality in writing of any discrepancies in the account statement.
- (7) The Municipality shall provide waste collection services to the premises against payment of the prescribed fee and the owner of the premises shall, notwithstanding anything else, remain liable in the last resort in the event of default payment.
- (8) A written request for cancellation of services from the occupier of the premises to which the service is rendered by the Municipality must provide reasons for the request. The Municipality must be satisfied that the request is justified and the municipality reserves the right to decline cancellations where such requests are deemed unacceptable in the circumstances.
- (9) The owner of the vacant premises shall keep the premises properly and adequately secured at all times.

CHAPTER 2

REGULAR BUSINESS WASTE AND DOMESTIC WASTE COLLECTION SERVICE

4. Delivery of waste containers

- (1) The Municipality shall, deliver or approve delivery to the premises the number and type of waste containers that in its opinion are required for the temporary storage of waste.
- (2) The occupier's liability to pay the applicable tariff related to either business or domestic waste is determined according to the dates on which the waste containers are delivered to and removed from the premises, and the Municipality's records serve as *prima facie* proof of such delivery and removal and of the applicable tariff payable.

- (3) The Municipality may, at any time after the delivery of waste containers in terms of subsection (1), remove some of the waste containers or deliver additional waste containers if, in its opinion, a greater or lesser number of waste containers is required on the premises. Where applicable the clients are permitted to collect waste containers from the nearest waste management depots of the Municipality.
- (4) The Municipality may deliver bulk containers to premises instead of smaller containers if it considers bulk containers essential for the premises having regard to the quantity of waste generated on the premises, the suitability of such waste for temporary storage in bulk containers, and the accessibility and adequacy of the space provided for by the occupier of the premises for the waste collection vehicles in terms of section 5.
- (5) The Municipality remains the owner of all waste containers or bulk containers provided and/or delivered by it in terms of this by-law. It is the responsibility of the client to safeguard the municipal waste containers delivered at their premises, the client will be held liable for loss of containers.
- (6) The Municipality will not be responsible for any damage to roads or infrastructure on a private waste disposal site resulting from legitimate operation of waste collection vehicles during waste collection activity at that site.

5. Placing of waste containers

- (1) The occupier of premises must provide an adequate and reserved clearance on the premises or provide any other equipment or facilities on the premises deemed necessary by the Municipality for the storage of the number of waste containers or bulk containers delivered in terms of sections 4 and 8.
- (2) The clearance provided on the premises in terms of subsection (1) must –
 - (a) be in such a location on the premises as to allow for the storage of waste containers or bulk containers. A suitable waste collection area with provision for a water point, a waste water collection point (drain) and concrete floor, roof, ventilation and which is big enough to accommodate all generated waste, must be provided at all time;
 - (b) be in such a location as to permit convenient access to and egress from the clearance by the Municipality's waste collection vehicles; and
 - (c) be sufficient to accommodate all waste, including the materials and any containers used in the sorting and storage of waste contemplated in sections 7(1)(a)(i)
- (3) The occupier of premises must place or cause the waste containers or bulk containers to be placed in the clearance provided in terms of subsection (1) and must at all times keep the containers in the clearance, except when they are removed for emptying.
- (4) Notwithstanding the provisions of subsection (3), the Municipality may, in an attempt to avoid a nuisance and for the sake of the convenience of waste collection, indicate a location within or outside the premises where the waste containers or bulk containers must be placed for the collection and removal of the waste, and such waste containers or bulk containers must then be placed in that location at such times and for such periods as the Municipality may require, provided that the provisions of this subsection apply to –
 - (a) premises in respect of which buildings were erected or building plans were approved prior to the promulgation of this by-law; and
 - (b) premises in respect of which the Municipality, in its opinion, is unable to collect and remove waste from the clearance provided in terms of subsection (1).

- (5) The Municipality may prescribe requirements for waste storage areas and access to such areas in respect of proposed new property developments.
- (6) The space provided in terms of subsection (5) must be constructed in accordance with the requirements of any applicable legislation related to buildings.

6. Collection of waste on a regular basis

- (1) The occupier of premises must, before 07:00 on the day of the removal of domestic waste:
 - (a) place the waste containers containing waste outside the boundary of the premises or on the nearest street boundary or in some place as jointly determined by the Municipality and the occupier of the premises,
 - (b) such containers must be properly closed and may not cause any obstruction to pedestrian or vehicular traffic.
 - (c) The containers shall be emptied by the Municipality on the removal day or at such other times and/or as determined and communicated by the Municipal Waste Management Officer.
- (2) Builder's rubble, steel, timber rests, soil, pebbles, rocks and garden refuse must not be disposed of in the containers meant for general waste. Where such are observed to have been included in the container such a container will be left unserviced.
- (3) The Municipality may refuse to empty any waste container or bulk container used and placed contrary to the provisions of subsections (1) and (2) and section (8).
- (4) The Municipality may determine where other waste other than general household and business waste should be disposed
- (5) The municipality may provide services of collection of other types of waste other than general waste, including recyclable waste or require the occupier of the premises generating waste to transport and dispose of such waste at sites or facilities that may be determined by the municipality in terms of subsection (4)
- (6) In providing the municipal service, the Municipality will only collect waste in approved waste containers.
- (7) The occupier of the premises shall ensure that bins placed for collection are not overturned.
- (8) The occupier of the premises must ensure that an approved bin is placed at the collection point at the stipulated time as indicated in subsection (1). Failure by the occupier of premises to place the bin for collection will result in the bin not being collected and shall remain the owner's responsibility.

7. Use and care of waste containers and bulk containers

- (1) The occupier of the premises to which waste containers or bulk containers have been delivered by the Municipality in terms of section 4 must ensure that –
 - (a) waste generated on the premises is placed and kept in the waste containers or bulk containers for removal by the Municipality in the case of general waste or removal and disposal as determined in Section 6 in the case of other types of waste including recyclable waste, provided that the provisions of this subsection does not prevent any occupier who has obtained the Municipality's prior written consent thereto from: –

- (i) selling or otherwise disposing of any swill, corrugated cardboard, paper, glass or other materials for recycling in a manufacturing process or, in the case of swill, for consumption; and
 - (ii) utilising any domestic waste that may be suitable for making compost, provided that the waste remains on the premises.
 - (b) Open fire, hot ash or other business waste or domestic waste which may cause damage to the waste containers, bulk containers or waste removal vehicles or which may cause injury to the Municipality's employees while they carry out their duties in terms of this by-law, may not be placed in waste containers or bulk containers unless suitable steps have been taken to avoid fire, such damage or injury;
 - (c) Waste material, including any liquid which, by reason of its mass or other characteristics, is likely to render the waste containers or bulk containers unreasonably difficult to handle, may not be placed in the waste containers or bulk containers; and
 - (d) Every waste container or bulk container on the premises must be kept in a clean and hygienic condition and, in the event of non-compliance with this provision, the Municipality may, in addition to any fines imposed on the owner or occupier of the premises, remove the waste container or bulk container and have it cleaned at the expense of the owner or occupier of the premises.
- (2) Waste containers delivered to premises in terms of section 4 may not be used for any purpose other than the storage of designated types of waste and no fire may be lit in such a waste container.
 - (3) A waste container delivered to premises in terms of section 4 may be emptied by the Municipality at such intervals as the Municipality may deem fit.
 - (4) The owner or occupier of the premises to which waste containers were delivered is liable to the Municipality for the loss of the containers and for all damage caused to the containers, except for any loss or damage caused by the employees or equipment of the Municipality.
 - (5) Waste containers and bulk containers provided by the Municipality may not be removed from the premises by any person without the Municipality's written consent.
 - (6) The occupier of premises must ensure that the storage area around waste containers and bulk containers is neat and free of waste and obstructions at all times.
 - (7) The occupier of premises must report to the Municipality any lost or damaged or partly damaged waste containers or bulk containers, which may be replaced at the discretion of the Municipality.

8. Compaction of waste

- (1) Should the quantity of business waste generated on premises be such as to require daily removal and should the major portion of such waste, in the opinion of the Municipality, be compactable, or should the occupier of the premises wish to compact any volume of waste, it must be approved by the Municipality. The Municipality may also direct the occupier to compact that portion of the waste that is compactable.
- (2) The occupier of the premises may, after obtaining the written approval from the Municipality or as directed by the Municipality, make use of approved bulk compaction containers, provided that the occupier of the premises supplies the containers.

- (3) Subject to the provisions of section 5 and 6 –
 - (a) any container used in terms of subsection (4) may be collected, emptied and returned to the premises by the Municipality;
 - (b) the occupier of the premises must prepare the container for collection and must immediately reconnect the container to the compaction equipment after the container's return by the Municipality to the premises; and
 - (c) the Municipality accepts no responsibility for any damage caused to containers or compaction equipment or any part thereof if (b) above is not practised and the employee(s) of the Municipality must perform such duties.
- (4) The provisions of this section do not prevent any occupier of premises who has obtained the Municipality's prior written consent from selling or disposing of any swill, corrugated cardboard, paper, glass or other materials for recycling in a manufacturing process or, in the case of swill, for consumption.

9. Service standards for waste collection

- (1) The Municipality may differentiate between categories of users and geographical areas when setting service standards and levels of service for the provision of the municipal service.
- (2) The Municipality must take the following factors into account in ensuring access to the municipal service:
 - (a) The waste management hierarchy set out in the National Waste Management Strategy.
 - (b) The need to use resources efficiently.
 - (c) The need for financial sustainability and affordability.
 - (d) The requirements of operational efficiency.
 - (e) The need to protect human health and the environment.
 - (f) The need to be developmental orientated.
- (3) In relation to the municipal service, the Municipality may determine –
 - (a) which service area requires an increased frequency of the municipal service for reasons of health, safety or environmental protection; and
 - (b) the maximum amount of waste that may be placed for collection without the provision of an additional service or payment of an additional prescribed fee.

CHAPTER 3

INDUSTRIAL WASTE

10. The Municipality's Industrial Waste service

The provisions of Chapter 2, in so far as they relate to the collection, removal and storage of business and domestic waste, apply *mutatis mutandis* to industrial waste.

11. Storage and disposal of industrial waste

- (1) The occupier of the premises on which industrial waste is generated must, until such time as the waste is removed from the premises, ensure that the waste is stored in the waste containers or bulk containers delivered to the premises by the Municipality for such purpose and such container or containers should by no means be assumed as being a secure method of keeping such industrial waste safe and harmless against any damage, injury, health, nuisance or any hazardous situation and the responsibility to guard against the same at all times remains with the occupier of the premises.
- (2) The occupier of the premises referred to in subsection (1) must ensure that –
 - (a) dust or other nuisances are not caused by the industrial waste generated on the premises; and
 - (b) the storage area around the waste containers or bulk containers is neat and free of waste and obstruction at all times.
- (3) A person contracted by the Municipality to remove industrial waste must deposit the waste at a disposal site designated by the Municipality for that purpose, or as stipulated in the contract.

CHAPTER 4

GARDEN WASTE, SPECIAL DOMESTIC WASTE AND BULKY WASTE

12. Removal and disposal of garden waste, special domestic waste and bulky waste

- (1) The occupier of the premises on which garden waste, special domestic waste or bulky waste is generated must ensure that, after the generation of the waste, the waste is disposed of in accordance with this chapter and within such time limits to prevent risks and nuisance conditions; provided that garden waste may be retained on the premises for the making of compost if, in the opinion of the Municipality, the garden waste will not cause a potential nuisance, fire or health hazard.
- (2) An authorised service provider who removes and disposes of garden waste, special domestic waste and bulky waste must ensure that once the waste is removed from the premises on which it was generated, such waste is, deposited at a site designated by the Municipality for that purpose and for such waste against payment of the applicable tariff.
- (3)
 - (a) Garden waste sites may, as indicated from time to time on the notice boards erected at these sites, be used, during the working hours of the sites, for the disposal of garden waste by residents. Garden waste may only be disposed of at designated waste disposal sites as indicated in this Chapter.
 - (b) A person entering a garden waste site may not deposit any waste other than that contemplated in subsection (5) in the containers provided for that purpose at such a site.
- (4) The provisions of sections 16 and 17 apply *mutatis mutandis* to containers used for the collection of garden waste, special domestic waste and bulky waste.
- (5) Users of garden waste service sites shall be allowed to dispose of up to 1 500 kg or 1,5 ton load per day provided that –
 - (a) the load will be pure green vegetation garden refuse;

- (b) there are no tree stumps or logs that are bigger than 10 cm in diameter and 1 metre in length; and
 - (c) a user disposing of a waste load in excess 1 500 kg or 1,5 ton provides proof that he or she has a waste management service account with the Municipality that is not in arrears and that the applicable disposal tariff will be recorded, charged and debited to his or her account.
- (6) Garden refuse loads that exceed 1 500 kg or 1,5 ton load per day will be disposed of at designated garden refuse processing facilities as determined from time to time by the Municipal Waste Management Officer or waste disposal sites where such is permitted by the municipality.

13. Irregular business and domestic waste service

At the written request of the occupier of the premises or if deemed necessary by the Municipality, the Municipality may, at its sole discretion, deliver additional waste containers to the premises in terms of section 4, in which event the provisions of Chapter 2 in respect of waste containers delivered for the storage of domestic waste apply *mutatis mutandis* to waste containers delivered in terms of this chapter.

14. The Municipality's special service

At the request of the occupier of the premises and after payment of the applicable tariff, the Municipality may remove garden waste, special domestic waste, builder's waste and bulky waste from the premises.

CHAPTER 5

BUILDER'S WASTE

15. Responsibility for the management of builder's waste

- (1) Generators of building and demolition waste shall plan and execute demolition and waste generation in such a way that soil, concrete and other elements of builder's waste will be separated
- (2) A person planning to generate waste through demolition and construction must submit, as part of the building plan, a waste management plan, which set out provisions made for separation of, storage and disposal of soil and excavation material, concrete and other components of builder's waste;
- (3) The waste management plan referred to in subsection (2) above shall be approved by the City's Waste Management Officer as part of the approval of the building plan
- (4) The occupier of premises on which builder's waste is generated, or any person involved in activities that result in builder's waste being generated on premises, must ensure that the waste is disposed of in accordance with waste management plan referred to in subsection (2) within such time limits as are considered reasonable by the Municipality.
- (5) Until such time as builder's waste is disposed of in accordance with subsection (3), the builder's waste must, subject to the provisions of section 1, be kept on the premises on which the waste was generated, together with the containers used for the storage or removal of the waste.
- (6) Generators of building and demolition waste shall, before commencing with activities, ensure that there is provision for separate storage and transportation of soil, concrete and other components of builder's waste to the designated disposal sites.

- (7) A person authorised to collect and recycle or dispose of builder's waste shall keep records of removal and safe disposal.
- (8) In the event that the generators of building and demolition waste fails to comply with the requirements of this section, the municipality may issue a fine and a directive to cease the building/ demolition operations and direct immediate correction of the non-compliance.
- (9) The issuing of an Occupation Certificate of new property by City Planning shall be subject to proof that the builder's waste management plan, approved as part of the building plan, has been complied with or after payment of a fine that will be determined in terms of this bylaw if such a proof cannot be furnished.

16. Builder's waste containers

- (1) If a container or other receptacle used for the removal of builder's waste from premises should, in the opinion of the Municipality, not be kept on the premises, the container or receptacle may, with the written consent of the Municipality in terms of approval of the builder's waste management plan, be placed in the road reserve for the period stipulated in the consent.
- (2) Any consent in terms of subsection (1) is given subject to such conditions and where applicable against payment of such a tariff as the Municipality may consider necessary.
- (3) A container or other receptacle that is used for the removal of builder's waste and that is placed in the road reserve with consent of the Municipality in terms of subsection (1) must –
 - (a) have the contact details of the body in control of the container or receptacle clearly marked on the container or receptacle;
 - (b) be fitted with reflecting chevrons or reflectors that completely outline the front and the back of the container or receptacle; and
 - (c) the container or receptacle must be properly closed during transportation so that no displacement of the waste can occur.
- (4) Storage of building materials or builder's waste without a container in a road reserve is prohibited and is an offence punishable in accordance with the provisions of section 46.

17. Disposal of builder's waste

- (1) All types of builder's waste must be disposed at sites designated by the Municipality for disposal of such waste; provided that the person disposing the waste has complied with the conditions of use of such a site including payment of a set tariff where such is applicable or arrangements in respects of payment have been made to the satisfaction of the Municipality.
- (2) For the purpose of civil projects and land reclamation, builder's waste may be disposed at a place other than the Municipal designated waste disposal sites after obtaining written consent of the Municipality,
- (3) Any consent given in terms of subsection (2) above is subject to such terms and conditions as the Municipality may deem appropriate.

- (4) If the occupier or owner of premises fails to comply with the provisions of this Chapter and remains in default after the Municipality has instructed him or her to comply with the provisions within the time as instructed, the Municipality may, at the expense of such occupier or person, remove the waste itself or have the waste removed.

CHAPTER 6

SPECIAL INDUSTRIAL WASTE, HAZARDOUS WASTE AND HEALTH CARE RISK WASTE

18. Notification of generation of special industrial waste, hazardous waste or health care risk waste

- (1) A person may not, within the area of jurisdiction of the Municipality, operate or conduct a service for the removal of any type of waste contemplated in this chapter from premises, irrespective of whether such service is rendered for payment or not, unless such person is registered with the Municipality to do so and in possession of a written permission in the prescribed format (referred to in schedule 2) from the Municipality.
- (2) An authorised person engaged in an activity or activities which generate special industrial waste, hazardous waste or health care risk waste must notify the Municipality, before commencement of such generation, of –
- (a) the composition of the waste;
 - (b) the quantity of the waste;
 - (c) the method of storage of the waste;
 - (d) the proposed duration of the storage of the waste; and
 - (e) in terms of the provisions of section 20(4), the manner in which the waste will be removed.
- (3) If so required by the Municipality, the notification referred to in subsection (2) must be substantiated by an analysis of the waste certified by a qualified industrial chemist or a person designated by the Municipality.
- (4) Subject to the provisions of any applicable legislation a person duly authorised by the Municipality may enter any premises during normal business hours or when justified by necessitating circumstances to ascertain whether special industrial waste, hazardous waste or health care risk waste is generated on the premises and may take samples of and test any waste found on the premises to ascertain its composition.
- (5) A person referred to in subsection (1) must notify the Municipality of any changes in the composition and quantity of the special industrial waste, hazardous waste or health care risk waste occurring after the notification in terms of subsection (2).

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

- (1) A person referred to in section 18(2) must ensure that the special industrial waste, hazardous waste or health care risk waste generated on the premises is kept and stored on the premises in accordance with the provisions of section 18 until the waste is removed from the premises in accordance with section 20.

- (2) Special industrial waste, hazardous waste or health care risk waste stored on premises must be stored in such a manner that the waste cannot become a nuisance or a safety hazard or pollute the environment.
- (3) If special industrial waste, hazardous waste or health care risk waste is not stored in accordance with subsection (2) on the premises on which it was generated, the Municipality may order the occupier of the premises and/or the person referred to in section 18(2) to remove the waste within such time as it may deem appropriate and, if the waste is not removed within that time, the Municipality may, at the occupier's expense and/or at the expense of the person referred to in section 18(2), remove the waste itself or have the waste removed.
- (4) Special industrial waste, hazardous waste or health care risk waste shall be stored in containers approved by the Municipality, and such containers shall be kept in an approved storage area to avoid nuisances before the removal of the waste in accordance with section 20.

20. Removal and disposal of special industrial waste, hazardous waste and health care risk waste

- (1) A person shall not, without written authorisation and subject to such terms and conditions reflected in such authorisation, remove or have special industrial waste, hazardous waste or medical waste removed from the premises on which it was generated
- (2) The occupier of premises shall have special industrial waste, hazardous waste or health care risk waste removed by an approved service provider only in compliance with the relevant legislation. The waste must be removed within 30 (thirty) days or such shorter time frame as may be instructed by the Municipality after generation thereof.
- (3) Special industrial waste, hazardous waste and health care risk waste may only be transported by a contractor who is approved by the Municipality and meets the Municipality's requirements in respect of –
 - (a) it's competence and ability to remove a particular type of waste;
 - (b) the type of containers of contractors;
 - (c) the markings on the containers of contractors;
 - (d) the manner of construction of the containers of contractors;
 - (e) the contractors' procedures for safety and cleanliness; and
 - (f) the contractors' documentation related to the source, transportation and disposal of waste.
- (4) An authorised service provider referred to in section 18(1) must inform the Municipality, at such intervals as the Municipality may stipulate, of –
 - (a) the removal of special industrial waste, hazardous waste or health care risk waste;
 - (b) the identity of the contractor who will remove the waste;
 - (c) the date of the removal of the waste;
 - (d) the quantity and the composition of the waste to be removed; and

- (e) the exact place and address where the waste will be disposed of and provide confirmation from the disposal facility that such waste will be accepted for disposal.
- (5) Should a person be convicted of contravening the provisions of this section, he or she shall, notwithstanding any penalty imposed on him or her, dispose of the waste as directed by the Municipality or, alternatively, the Municipality may dispose of the waste itself at the expense of such person.
- (6) Notwithstanding anything to the contrary contained in this by-law, the generation, storage, removal and disposal of special industrial waste, hazardous waste or health care risk waste in accordance with this Chapter are subject to the provisions of the Hazardous Substances Act, 1973, the Occupational Health and Safety Act, 1993, the National Road Traffic Act, 1996, the Health Act, 1977, and the Fire Brigade Services Act, 1987, and any regulations promulgated under these acts as well as any By-laws of the Municipality ancillary thereto.

CHAPTER 7

DISPOSAL SITES

21. Conduct at waste disposal sites

- (1) Right of admission to a disposal site controlled by the Municipality is reserved, and every person who enters such a disposal site must –
 - (a) enter the disposal site at an authorised access point;
 - (b) if required to do so, present the waste for weighing in the manner required by the Municipality;
 - (c) give the Municipality all the particulars required with regard to the composition of the waste;
 - (d) follow all instructions given to him or her with regard to access to the actual disposal point, the place where waste is to be deposited and the manner in which the waste is to be deposited;
 - (e) adhere to all traffic rules while at the disposal site; and
 - (f) before leaving the disposal site, pay the applicable tariff in respect of the waste dumped or comply with any prior arrangements made with the Municipality with regard to payment of the applicable tariff.
- (2) A person who contravenes any of the provisions of subsection (1) may be refused entry to or be removed from the disposal site.
- (3) the Municipality may at any time require that a vehicle and/or the vehicle's containers be weighed at a weigh scale at the disposal site in respect of a disposal site controlled by the Municipality, .
- (4) A person may not bring any intoxicating liquor onto a disposal site or garden waste site controlled by the Municipality or enter the site while under the influence of intoxicating liquor or reasonably being suspected of being under the influence of such liquor or other drug substances which may have similar debilitating effects on a persons' senses.

- (5) A person may not, at a disposal site controlled by the Municipality, dump any burning or smouldering material or chemicals that may pose a physical or health threat of any nature whatsoever or fire hazard.
- (6) A person may not dump any animal carcasses or any waste meat products at a disposal site controlled by the Municipality except with the prior written consent of the Municipality.
- (7) Unless authorised to do so by the Municipality, a person may not enter a disposal site controlled by the Municipality for any purpose other than for the disposal of waste in terms of this By-law, and then only during such times and between such hours as the Municipality may determine from time to time.
- (8) The Municipality may refuse to accept any waste at a disposal site controlled by the Municipality if, in the opinion of the Municipality, the waste may have a detrimental impact on the environment or, alternatively, the Municipality may allow such waste on the terms and conditions it deems fit in accordance with the minimum requirements as directed by the National Department of Water and Sanitation.
- (9) Save for sites owned and operated by the Municipality, any disposal site within the area of jurisdiction of the Municipality must be registered with the Municipality by the owner as contemplated in Chapter 10 of this by-law.
- (10) The Municipality reserves the right to inspect any load arriving at any municipal waste disposal site for unacceptable materials.
- (11) Inspection of the load may include visual and manual inspection, use of hand-held test instruments, and laboratory analysis of the waste involved or any other method deemed appropriate by the Municipality.
- (12) When a load is selected for inspection, the vehicle operator shall either comply with the directions of the municipal staff or immediately remove the load from the facility.
- (13) Where a load is determined to be unsuitable for disposal at the municipal facility, the customer shall also be liable for all related costs incurred by the Municipality including –
 - (a) inspection costs;
 - (b) laboratory analysis fees;
 - (c) administrative fees; and
 - (d) hauling, disposal, and facility decontamination costs, where applicable.
- (14) No person may dispose of a waste tyre unless such a waste tyre has been shredded, excluding bicycle tyres and tyres with an outside diameter of more than 1 400 mm, as stipulated in the Waste Tyre Regulations, 2009.

CHAPTER 8

LITTERING, WASTE MANAGEMENT IN FUNCTIONS AND EVENTS DUMPING AND ABANDONING OF WASTE AND WASTE MATERIAL

22. Littering

- (1) A person may not –

- (a) throw, drop, deposit, spill or in any other way dispose of any waste or waste material in or on any public place or premises, except into a container provided for that purpose or at a disposal site controlled by the Municipality;
 - (b) allow any other person under his or her control to commit any of the acts contemplated in paragraph (a) above, and, for the purpose of this subsection, employers or principals are liable for the acts of their employees or agents, provided that where vicarious liability is incurred such employer or principal may be prosecuted as if he or she personally committed the transgression.
- (2) A person transporting material must take sufficient precaution and measures to ensure that the material being transported is not discarded or spilled from the vehicle by providing adequate coverage, not over-filling the loading area and/or that the loading area is equipped with a suitable load cage, and other tools, equipment or facilities as may be necessary under the circumstances.

23. Waste management in functions and events with more than 20 participants

- (1) An organiser or host of a sporting, entertainment, cultural or religious event with more than 20 people must ensure that there are special arrangements made for a waste service for the function or event which is separate and not dependant on the regular waste service that is provided to the property if the property is not a venue whose normal business is to host functions and events and has an ongoing waste services arrangement associated with functions and events
- (2) Any person who is directly or indirectly involved with the organisation or management of a sporting, entertainment, cultural or religious event of more than 20, must submit an event integrated waste management plan consistent with this By-law to the Waste Management Officer 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 City.
- (3) The integrated waste management plan must also include costing information, and the organiser, management or owner will be required to pay a refundable deposit as determined by the City.
- (4) Waste for functions and events of more than 20 people must be separated into recyclable and non-recyclable waste for the purposes of separate collection and disposal.
- (5) The organiser or host may organise own waste service provider who must be a municipal permit holder for the provision of waste management services or request a special service for the event/ function from the municipality based on the City's tariff for such services
- (6) A duly authorised municipal official may visit any property that they believe is hosting a function or event of more than 20 people and demand to see documentary proof of compliance with subsection (2) of this bylaw.
- (7) In the case of failure to provide proof of compliance with subsection (2), the official will require the organiser to sign an agreement authorising the City to provide the services according to what it determines appropriate in terms of this bylaw at the cost of the organiser or host
- (8) Where the organiser or host refuses to sign the agreement referred to in subsection (7) above, the official may issue an order for the event or function to be stopped and the City to provide service, at the cost of the organiser/ host, to manage whatever waste that will have been accumulated at the time of stopping the event/ function.

24. Unauthorised disposal and abandoning of waste

- (1) A person may not dispose of any waste or waste material at any place or on any premises other than as mentioned for in terms of this By-law.
- (2) A person found to be contravening subsection (1) above shall be guilty of an offence in terms of this by-law.
- (3) Subject to the provisions of any other law, the Municipality has the right to remove and dispose of any abandoned waste or waste material in any way it deems appropriate.
- (4) The Municipality is not liable for any damages, costs or claims that may arise out of or in any way emanates from any action taken in terms of this section or any other empowering provision in terms of this By-law.
- (5) Should a person be found guilty of contravening the provisions of this section, he or she shall, notwithstanding any penalty imposed on him or her by the court, remove and dispose of the abandoned waste or waste material as directed by the Municipality or, alternatively, the Municipality may without delay remove and dispose of the waste or waste material itself at the expense of that person including any administrative expense incurred by the municipality associated with helping or incentivising members of the public to assist in the prosecution.

25. Liability of person responsible

- (1) Where any abandoned waste or waste material has been removed and disposed of by the Municipality in terms of sections 24(3), the person responsible for the waste is liable to pay to the Municipality the cost of the cleaning or removal operation including any administrative expense incurred by the municipality associated with helping or incentivising members of the public to assist in the prosecution and a penalty where applicable.
- (2) For the purposes of subsection (1) the person responsible is –
 - (a) the last owner of the waste or waste material before it was removed by the Municipality and includes any person who, at the time of the abandoning of the waste or waste material, was entitled to be in possession of the waste or waste material by virtue of the common law, a hire-purchase agreement or an agreement of lease, unless it can be proved by such a person that he or she was in no way connected to and could not reasonably have known of the abandoning of the waste or waste material;
 - (b) the person who dumped the waste or waste material at the locality in question, and includes the employer or principal of such a person;
 - (c) a person contemplated in section 6A(1)(c)(i) of the Businesses Act, 1991 (Act 71 of 1991), and the Municipality's Street Trading By-law promulgated in terms of that act.
- (3) The owner of the property or premises remains liable to pay the prescribed municipal service fee for the provision of the municipal service, and is not entitled to exemption from or reduction of the amount of such fee by reason of not making use, or of making partial or limited use, of the municipal service.
- (4) Non-receipt of an account statement does not relieve the person concerned of the liability to pay a prescribed fee before or on the due date and the liable person remains obligated to ascertain him-, her – or itself of what the amount of the fee on the account payable.
- (5) A prescribed fee may be paid for an additional bin or for a replacement bin if a request is made as a result of a bin which is reported to have been stolen or gone missing.

CHAPTER 9
GENERAL PROVISIONS

26. Access to premises

- (1) Where the Municipality provides a waste collection service in respect of premises, the occupier of the premises shall grant any employee of the Municipality access to the premises for the purpose of collecting and removing waste and must ensure that nothing obstructs; thwart or hinders such employee in the rendering of the service.
 - (a) The provisions of subsection (1) apply *mutatis mutandis* to any employee of the Municipality for the purposes of inspection, verification and audit.
 - (b) Where, in the opinion of the Municipality, the delivery, collection or removal of waste from any premises may result in damage to the premises or the Municipality's property, or injury to the Municipality's employees or any other person, the Municipality may, as a condition for rendering the waste collection service in respect of the premises, require the occupier of the premises to indemnify the Municipality or the Municipality's contractor in writing against any such damage or injury.
- (2) Where a waste removal service cannot be rendered in respect of premises because of the action of the owner and/or the occupier of the premises, the owner and/or the occupier remains liable for the payment of the costs of the service in terms of the provisions of section 40(1).
- (3) The owner and/or the occupier of premises is liable for any nuisance or threat to the safety and security of the general public where such a nuisance or threat relates to the cleanliness of the premises, including the prevention or removal of illegal dumping on the premises. Should the owner and/or the occupier of the premises fail to take the necessary preventative or rectifying steps in respect of such a nuisance or threat, the Municipality may itself take whatever steps are necessary to prevent or rectify the nuisance or threat and may recover the costs of the steps from the owner and/or the occupier of the premises in terms of section 25(1).
- (4) Street numbers of premises must be clear and visible from the street in order to facilitate delivery of waste containers and handling of queries.

27. Incineration of waste

The Municipality is not obliged to accept any waste destined for incineration.

28. Waste recycling

- (1) Waste material for the purpose of recycling may not be stored at any premises where it results in risks or nuisance conditions.
- (2) A person involved with recycling in any way must comply with all applicable statutory requirements.
- (3) Separation of waste or sorting of recyclables shall be performed on the premises of the point of generation of the recyclable waste stream.
- (4) All facilities where separation and classification of recyclable material is performed must comply with the applicable statutory requirements.

- (5) Any person interested in collecting and processing recyclable waste shall register with the Municipality as a permit holder for the purpose of, among other, data collection into the waste management information.
- (6) Areas receiving collection services from private providers, unless the provider is doing so on behalf of the Municipality, shall keep records of both the collection and recycling of the collected recyclables which records must be provided to the Municipality upon request.
- (7) An occupier of a premises may, after obtaining written approval of the Municipality, and/or in conjunction with the Municipality embark on initiatives that may utilize waste generated in those premises for initiatives that support environmental sustainability including recycling initiatives
- (8) Where recycling materials and/or services are provided by the Municipality or an authorised service provider the owner or occupier shall separate recyclable waste from non-recyclable within the confines of an appropriate demarcated area on the property of the owner or occupier before depositing it to the Municipality or authorised service provider

29. Permanent service by means of bulk containers

Permanent bulk container service shall be allowed on sidewalks subject to having obtained prior written approval from the Municipality.

30. Ownership of Waste

- (1) Waste on premises controlled by the Municipality, including waste disposal sites, refuse transfer stations and facilities where waste is received, stored or recovered shall be the property of the Municipality.
- (2) No person who is not duly authorised by the Municipality may remove or interfere with waste on premises controlled by the Municipality.
- (3) Waste that is collected by the Municipality or its authorised service provider becomes the property of the Municipality when it is placed in receptacles provided by the Municipality on the kerbside by the generator thereof for collection.
- (4) Authorised service providers become the owners of waste placed for collection by such authorised service providers.

31. Waste Information Reporting

- (1) The Municipality may establish and maintain a waste management information system for the purpose of recording data on management of waste within the municipal area.
- (2) The Municipality may, subject to the provisions of any other law, require any waste generator, service provider or person involved in or associated with the provision of a waste service or any commercial service within the municipal area to furnish information to the municipality which may reasonably be required for the information system, and which may concern-
 - (a) sources of waste generation;
 - (b) identification of the generators of waste;
 - (c) quantities and classes of waste generated;
 - (d) management of waste by waste generators;
 - (e) waste handling, waste treatment and waste disposal facilities;
 - (f) the management of hazardous waste; and

- (g) any other information required by legislation, regulations or guidelines.
- (3) The municipality may determine when and how the information must be provided.

CHAPTER 10

PRIVATE SERVICE PROVIDERS

32. Permitting of private service providers by the Municipality

- (1) A person may not, within the area of jurisdiction of the Municipality, operate or conduct a waste management service of any type, as contemplated in this bylaw, from premises, irrespective of whether such service is rendered for payment or not, unless such person is granted written permission to operate such a service by the Municipality.
- (2) The provisions of subsection (1) shall apply *mutatis mutandis* to any person who operates or conducts waste recycling activities of any nature or extent whatsoever within the area of jurisdiction of the Municipality.
- (3) For the purposes of this chapter, a person who wishes to be registered and permitted as an authorised service provider must submit a written application to the Waste Management Officer of the Municipality against payment of the prescribed fee and provide all particulars of the information referred to in Schedule 1.
- (4) An authorised service provider engaged in the provision of waste removal services within the jurisdiction of the Municipality shall –
 - (a) be liable to pay to the Municipality the prescribed fee for the disposal of waste at the municipal waste disposal site;
 - (b) keep a record of all households, businesses, industry, and persons within the jurisdiction of the Municipality to whom they are rendering waste removal services and such records shall be made available to the Municipality within five working days when requested;
 - (c) implement waste separation and recycling initiatives
 - (d) Provide information on the quantities and types of waste being processed for the purposes of capture in the municipal waste information management system at intervals that will be determined by the municipality
 - (e) ensure that the vehicles used for providing the waste removal service comply with the Municipality's requirements and any other relevant legislations for waste transporters and traffic regulations in general;
 - (f) ensure that the vehicles used for providing the waste removal service are at all times driven according to traffic legislation and regulations and the law in general and any driver that poses a threat through recklessness or gross negligence to other road users shall not be allowed to drive or be in control of such vehicle or vehicles.

33. Suspension and revocation of a permit

- (1) A permit issued under this by-law may be suspended or revoked by the municipality on the grounds that the service provider:
 - (a) is in breach of the permit conditions
 - (b) has failed to comply with any provision of these By-laws;

- (c) has failed to comply with any provision of any national or provincial legislation which regulates the collection, transportation or disposal of waste or traffic regulations;
 - (d) on any other ground which the Municipality considers to be fair and reasonable in the circumstances
- (2) A permit may only be suspended or revoked after—
- (a) the permit holder has been given written notice that the Municipality is considering the suspension or revocation of the permit; and
 - (b) the permit holder has been given a period of 30 (thirty) days after service of the notice to make representations to the Municipality as to why the permit should not be suspended or revoked
- (3) The municipality shall take a decision within 14 (fourteen) days of receipt of the representations contemplated in subsection (2)(b), if any, or within 14 (fourteen) days after the expiry of the period of 30 (thirty) days referred to in (2)(b) and inform the permit holder of its decision.

34. Terms and conditions of a permit

- (1) When granting a permit under this by-law, the Municipality may, subject to the provisions of subsection (2), impose any condition reasonably necessary in furthering the Municipality's waste management policy.
- (2) A permit issued under this Chapter shall—
- (a) specify the permit period for which the permit is valid and the procedure for renewing the permit;
 - (b) specify the nature of the service which the permit holder may provide;
 - (c) specify every category of waste in respect of which the permit holder may provide a waste management service;
 - (d) contain a requirement that the permit holder must comply with, and ensure compliance with these By-laws and applicable national and provincial legislation; and
 - (e) require the permit holder to keep monthly written records on a form prescribed by the Municipality of the quantities of each category of waste stored, collected, transported, treated or processed during the permit period.
- (3) An agreement between a service provider and an owner, occupier or waste generator may not be interpreted in a manner so as to bind the Municipality or create the impression that the Municipality granted its' consent thereto and to the extent that the conditions of such agreement are in conflict with these By-laws; shall be deemed null and void.

35. Renewal of permits

- (1) A permit holder who wishes to renew his or her permit must at least 90 days prior to the expiry of the existing permit:
- (a) apply on the prescribed form to renew the permit concerned; and
 - (b) pay the prescribed permit renewal application fee.
- (2) Before considering an application made in terms of subsection (1), the Municipality may require the applicant to furnish such information as may be required.
- (3) The Council must consider and grant or reject a permit renewal application within 60 (sixty) days of the receipt of the application.

- (4) If the municipality fails to grant or reject an accreditation permit renewal application within 60 (sixty) days, it must inform the service provider in writing that the period for consideration is extended and must inform the service provider of the date by which a decision will be made.
- (5) A permit in respect of which an application for renewal has been made in terms of subsection (1), remains valid until a final decision has been made in respect of that renewal application.

36. Display of a permit

Upon issuing of a permit under this bylaw, the Municipality may issue to the permit holder a sticker, decal or label, as the case may be, for each transportation vehicle which must be affixed to each vehicle to be utilised to provide a waste management service and must be displayed on the vehicle in such a manner that it can clearly and easily be seen from the outside of the vehicle.

37. General provisions for permit

- (1) No permit holder may - collect or transport any waste except in a properly constructed, watertight vehicle or in a suitable container that prevents spillage of waste.
- (2) The suitability of the vehicle will be dependent on the waste stream, to be collected or transported, and will be determined by the Municipality.
- (3) A permit is only applicable to provision of service for the clients as provided during the permit application process.
- (4) A permit holder is not entitled to service new clients in respect of an existing permit.
- (5) The permit holder may only apply to service new additional clients during the permit renewal process following expiry of their existing permit.
- (6) Where a permit holder makes use of a Municipal Waste disposal site, the Permit Holder's waste disposal site account shall not remain in arrears for more than 4 months. Failure to rectify the account after the fourth month in arrears, shall lead to the permit being suspended.

38. Validity of permits during the transition

- (1) Any person who is at the commencement of these By-laws lawfully providing a waste service, may continue providing such service provided that within 90 days of such commencement, such person makes application for an a permit in terms of this By-law, failing which such person's right to provide such service lapses.
- (2) If an application is submitted in terms of subsection (1), the applicant may continue to provide the commercial service in respect of which the application has been made until a final decision has been taken in respect of that application.

CHAPTER 11

TARIFFS AND CHARGES

39. Determination of tariffs and charges

The waste management service tariffs and charges will be determined in terms of the tariff policy of the municipality in compliance with Section 74 of the Local Government: Municipal Systems Act (Act 32 Of 2000)

40. Responsibilities in respect of tariffs and charges

- (1) Except where otherwise provided for in this by-law, the owner and the occupier of premises in respect of which services are rendered by the Municipality in terms of this by-law are jointly and severally liable to the Municipality for payment of the applicable tariffs for the services as may be determined by the Municipality from time to time.
- (2) The applicable tariff in respect of a service rendered by the Municipality may be adjusted by the Municipality from time to time in terms of the applicable legislation and policy or after receipt of a written notification from the occupier of the premises to which the service is rendered, and such notification must declare that the generation of waste on the premises has altered in volume, and the Municipality must be satisfied that an adjustment in the tariff is justified in the circumstances, in which case the occupier will still be liable to pay the relevant tariff
- (3) Upon receipt of the written notification in terms of subsection (2), the adjusted tariff becomes effective on the date determined by the Municipality
- (4) A person who fails to pay the applicable tariff in respect of services rendered by the Municipality is guilty of an offence.
- (5) The owner or occupier of premises within the area of jurisdiction of the Municipality is liable for the full payment of city cleansing components in accordance with the applicable tariff.
- (6) Where waste removal services to a premise are provided by private service provider, the owner and/or occupier remains liable for the full payment of the city cleansing charge

CHAPTER 12

ENFORCEMENT

41. Enforcement capacity

The City shall establish institutional capacity made up of duly authorised municipal officials who will facilitate enforcement of this bylaw

42. Anti-littering Enforcement

- (1) A person who may have been noticed by a law enforcement officer or an environmental management inspector, in the act of littering may be instructed by such a person to pick the litter and upon resistance to such an instruction the law enforcement officer or an environmental management inspector may detain the offender for prosecution or summon the offender for purposes of prosecution by an officer or inspector in line with the provisions of the Criminal Procedures Act, 1977.
- (2) A person who may have been noticed by a member of the public, in the act of littering may be advised by such a person to pick the litter and upon resistance to such an advice, the member of the public may alert a law enforcement officer or an environmental management inspector who may detain the offender for prosecution or summon the offender for purposes of prosecution by an officer or inspector in line with the provisions of the Criminal Procedures Act, 1977.
- (3) In cases where members of the public were involved in resisted attempts to make offenders pick up litter as per subsection (3) above, such members of the public may be requested to be witnesses and/or provide evidence of the act of littering in subsequent prosecution.

43. Enforcement in respect of unauthorised disposal and abandoning of waste

- (1) A person who may have been noticed by a law enforcement officer or an environmental management inspector in the act of disposing of waste or waste material at any premises other than as designated for the disposal of waste, may be instructed by such a person to remove the waste and upon resistance to such an instruction the offender may be detained for prosecution or summoned for the purposes of prosecution
- (2) A person who may have been noticed by a member of the public in the act of disposing of waste or waste material at any premises other than as designated for the disposal of waste, the member of the public may alert a law enforcement officer or an environmental management inspector, providing supporting evidence such as photographic picture, who shall instruct the offender to remove the waste and upon resistance to such an instruction the offender may be detained for prosecution or summoned for the purposes of prosecution
- (3) In cases where members of the public were involved in notifying a law enforcement officer or an environmental management inspector about illegal waste disposal, as contemplated in subsection (2) above, such members of the public may be requested to be witnesses and/or provide evidence of the act of illegal waste disposal they have witnessed, in subsequent prosecution.

44. Powers of an authorised official

A duly authorised municipal official may, in relation to the provisions of this bylaw:

- (a) inspect any site;
- (b) Issue compliance notices and
- (c) Report cases of noncompliance with notices issued in terms of this bylaw for prosecution in a court of law and present themselves as witnesses on behalf of the municipality in the procession of such cases.

45. Compliance notices

- (1) The waste management officer or an authorized official may issue notices to any person contravening the provisions of this By-Law—
 - (a) setting out the provisions or conditions contravened;
 - (b) directing such person to comply with such provisions or conditions; and
 - (c) setting out the measures which must be taken to rectify the contravention, and the period in which he or she must do so.
- (2) If a person fails to comply with directions given in a notice issued by the waste management officer or an authorized official, the waste management officer or an authorized official may:
 - (a) take whatever steps it considers necessary to clean up or remove waste, to rehabilitate the premises, place or the affected environment at which the waste has been illegally dumped or stored and to ensure that the waste, and any contaminated material which cannot be removed, cleaned or rehabilitated, is disposed of lawfully;
 - (b) recover the costs of cleaning, removing, rehabilitating or disposing waste, premises or environment, or contaminated material, respectively, from the persons obliged to take such steps in terms of this By-Law, who shall be jointly and severally liable therefore.
- (3) The City may, in the case of hazardous or priority waste, require the persons generating such waste to close until such time as steps are taken to dispose of the waste in terms of subsection (2) if there is a real threat of damage or injury to any person or property.
- (4) The following persons may be served with such notice:
 - (a) any person who committed, or who directly or indirectly permitted, the contravention;
 - (b) the generator of the waste;
 - (c) the owner of the land or premises where the contravention took place;
 - (d) 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.

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

47. Failure to comply and offences

If the waste management officer or authorized person has issued a compliance notice in terms of section 43 to anyone for contravening any provision of this By-law and such person fails to comply with such notice he or she shall be guilty of an offence.

48. Offences and penalties

- (1) Any person convicted of an offence under this by-law, in addition to being liable for the remedial and administrative costs as may be applicable, is liable to a maximum period of imprisonment of three years or R60 000 or both as may be determined by a court of law in accordance with the Adjustment of Fines Act, 1991 (Act 101 of 1991), or to both the imprisonment and the fine.
- (2) In the event of the Municipality having to clean up illegally disposed waste (including the excision of any type of vegetation, shrubs or trees) on private property after due notices have been issued to the owner, the owner shall be liable for the costs such costs shall be debited against the owner's municipal account

49. Reporting of noncompliance with the bylaw

- (1) Any person who wishes to report noncompliance with the bylaw including illegal disposal or abandoning of waste should report to the Municipality revealing as much as he/ she possibly can including the following information
 - (a) debris, nature and location
 - (b) photo of the incident
 - (c) description of offenders
 - (d) license plate number and description of vehicles involved
 - (e) description of items dumped
 - (f) time, date and location of incident they witnessed
- (2) Any person suspecting or witnesses an act of noncompliance with the bylaw may use visit or call any customer care or administrative office of the City and request to be assisted to get in contact with the Waste Management Officer or an authorised official in terms of this bylaw to provide information regarding the alleged act of noncompliance

CHAPTER 13

REPEAL OF BYLAWS AND SHORT TITLE

50. Repeal of by-laws

- (1) The City of Tshwane Metropolitan Municipality's Solid Waste By-law published in the Provincial Gazette Extraordinary No. 209 of 25 May 2005 under Local Authority Notice 1091 are hereby repealed and substituted by this by-law which will apply in the area of jurisdiction of the Municipality. This by-law substitutes any other by-laws on the management and control of solid waste which were previously in force within the area of jurisdiction of the Municipality.
- (2) This by-law will supersede any other by-laws which may have been applicable, if not for this provision, within the said area of jurisdiction.

51. Short title

This by-law is called the City of Tshwane Waste Management Bylaw, 2016 and shall come into operation on the date of publication thereof in the Provincial Gazette.

SCHEDULE 1

INFORMATION THAT MAY BE REQUIRED FOR THE REGISTRATION AND PERMITTING OF AUTHORISED SERVICE PROVIDERS

1. Service provider information

- Name of the service provider
- Ownership of the service provider
- Name of contact person
- Telephone number of contact person
- Fax number of contact person
- Email address of contact person
- Physical address of contact person

2. Client information

- List of names of proposed clients of the service provider
- Name of contact person of proposed clients
- Telephone number of proposed clients
- Fax number of proposed clients
- Email address of proposed clients
- Physical address of proposed clients

3. Information regarding type of waste to be removed

- Types of waste to be removed by the service provider
- Number and types of container to be used by the service provider
- Frequency of service to be provided by the service provider
- Mode of collection to be used by the service provider

4. Information regarding waste disposal

- Waste disposal facilities to be used by the service provider
- Contact person at the waste disposal facilities to be used by the service provider
- Telephone number of contact person at the waste disposal facilities
- Fax number of contact person at the waste disposal facilities
- Email address of contact person at the waste disposal facilities

5. Recycling

- Types of material to be reclaimed by means of recycling activities
- Volumes of each type of material to be recycled
- Physical address of recycling plant
- Proof of an existing market for material to be reclaimed by means of recycling activities

6. Site inspection

A site inspection will be conducted on the premises of the applicant service provider in order to verify the following aspects of the application prior to the permitting of the applicant service provider:

- The availability of complaint equipment.
- A wash schedule for equipment must be included in the application.
- All bulk containers must be numbered and such bulk containers shall not have the same colour as bulk containers used by the Municipality.
- No other container shall have the same colour as the containers used by the Municipality.
- The name of the service provider and its contact details must be displayed on all containers in such a way that it will be visible and readable from a distance of at least 20 metres.

- All vehicles, trailers and containers shall comply with the provisions of the National Road Traffic Act, 1996 (Act 93 of 1996).
- All bulk containers must be marked with the prescribed reflective tape.
- Any service for the removal of garden waste must transport such garden waste by means of vehicles which are suitable to contain loose volumes without the potential to cause littering along the transportation route.
- The applicant service provider's commitment to job creation and black economic empowerment as well as its track record in Tshwane and with the Municipality, in particular, will be a major consideration in the adjudication of applications for registration or permitting of authorised service providers in terms of the provisions of this by-law.
- All the information required in terms of the above-mentioned provisions must be furnished in full and in writing, failing which, the applicant service provider's application shall be disqualified.

SCHEDULE 2

TEMPLATE: WASTE TRANSPORTATION PERMIT



Reference no: TWP 11/000

Environmental Management Services Department
Waste Management Division

WASTE TRANSPORTATION PERMIT

This is to certify that:

XYZ (PTY) LTD

Has been issued with a Permit for removal and transportation of the below mentioned waste within the City of Tshwane Jurisdiction:

❖ **GENERAL WASTE**

Your company is hereby granted a waste transportation permit in terms of the Solid Waste By – Laws for the City of Tshwane Metropolitan Municipality 2005 for a one (1) year period where after a new permit must be obtained.

The permit is subject to the conditions as stipulated in the waste permit letter.

Date of Expiry: 31 OCTOBER 20XX

Although this permit is issued in terms of the City of Tshwane Solid Waste By-laws, this permit does not negate the holder from complying with other applicable statutory requirements. Including *inter alia* the requirements of the National Environmental Management: Waste Act, 2008 (Act No.59 of 2008).

This permit is not transferrable to the next party

EXECUTIVE DIRECTOR: WASTE MANAGEMENT

Date

SCHEDULE 3

TEMPLATE: WASTE TRANSPORTATION CONDITIONS OF PERMIT



Environmental Management Services Department Waste Management Division

Waste Management | 1st Floor | Nr 11 Francis Baard Street | Pretoria | 0001
PO Box 1454 | Pretoria | 0001
Tel: 012 358 2263 | Tel: 012 358 4755 | Fax: 086 694 2415
Email: AngeliqueM@tshwane.gov.za | www.tshwane.gov.za | www.facebook.com/City of Tshwane

My ref: TWP 14/0031
Your ref:
Contact person: Louis Makhubele
Section/Unit: Waste Management Operations

Tel: 012 358 5616
Fax: 086 694 2415
Email: LouisMa@tshwane.gov.za

XYZ (PTY) LTD

PERMIT FOR REMOVAL AND TRANSPORTATION OF WASTE IN THE CITY OF TSHWANE JURISDICTION

The permit is subject to the following conditions:

1. The permit is for collecting, transporting and disposal of general waste to landfill sites within the City of Tshwane jurisdiction.
2. This permit is applicable to the client information provided in the permit application document. The permit holder must advise the Municipality as soon as possible of any change in the information provided to the Municipality in the application for the permit.
3. Only waste that is stipulated on the issued permit may be transported.
4. This permit is applicable to the compliance in recycling to the requirements of the National Environmental Management: Waste Act No. 58 of 2008 (NEMA: WA) and the Environmental Impact Assessment (EIA) regulations made under Section 24(5) of the National Environmental Management Act 2008 (NEMA) No. 107 of 1998.
5. The permit holder must ensure that the vehicle/s to which the permit applies does not spill or leak waste materials at any time as stipulated in the permit application.
6. The vehicle, trailers and containers should comply with the provisions of the National Road Traffic Act, 1996.
7. The permit is subject to all applicable National, Provincial, and Local legislation as well as directives of the City of Tshwane.
8. You may be required quarterly to inform this Department of the volumes and types of waste recycled. This information will be used for statistics in the Tshwane region as required by the Department of Environmental Affairs (DEA).
9. The permit is on condition that the permit holder contacts the required authorities concerning his/her recycling facility.

Failure to comply with these requirements could result in the permit being withdrawn.

Kind regards,

.....
EXECUTIVE DIRECTOR: WASTE MANAGEMENT

.....
DATE

Kgoro ya Taolo ya Tikologo • Departement Omgewingsbestuur • Lefapha la Tsamaiso ya Tikologo
Ndzawulo ya Mafambiselo ya swa Mbango • UMnyango Wesokuphuthwa Kweemvelo
Environmental Management Department