



**environmental affairs**

Department:  
Environmental Affairs  
REPUBLIC OF SOUTH AFRICA



SOUTH AFRICAN LOCAL  
GOVERNMENT ASSOCIATION

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**Emakhazeni Local Municipality**

**Integrated Waste Management By-Law**

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## **Emakhazeni Local Municipality**

### **INTEGRATED WASTE MANAGEMENT BY-LAWS**

The Municipal Manager of the Emakhazeni Local Municipality hereby, in terms of Section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), publishes the Integrated Waste Management by-laws for the Emakhazeni Local Municipality, ("Municipality") as approved by a resolution of its Council and as concurred with by the Premier: Mpumalanga Province.

These by-laws have been promulgated by the Municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996 and in accordance with section 9(3)(a)-(d) of the National Environmental Management: Waste Act, 2008 as amended.

## **2 CHAPTER ONE: INTRODUCTION**

### **3 PURPOSE OF THE BY-LAWS**

To regulate and provide for waste management services including collection and disposal of solid 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 as amended and the Local Government: Municipal Systems Act, 2000 as amended 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 jurisdiction of the Municipality.

### **4 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 adverse impact on the environment in and beyond Municipal boundaries;

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

**AND WHEREAS** the "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 Emakhazeni Local Municipality as follows:-

## 5 DEFINITIONS

In these by-laws, any word or expression to which a meaning has been assigned in the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) as amended and the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) as amended; and associated regulations shall have the meaning so assigned and, unless the context indicates otherwise.

**"adequate"** means a standard or manner that in the opinion of the Council is sufficient to achieve the purpose and apply the principles of these By-laws.

**"animal"** means any cattle, sheep, goat, horse, mule, donkey, pig or any miniature of these species as well as any wild animals and pets; and includes any body parts, organs, blood, tissue or skin derived from such an animal.

**"approved"** means approved by the Council

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

**"bin"** means a standard type of refuse bin or container as approved by the Municipality.

**"bin liner"** means a loose plastic bag as prescribed by the Council and which is being placed inside the refuse bin.

**"bulk garden waste"** means waste such as tree stumps, branches of trees, hedge stumps, and branches of hedges and any other garden waste, which by virtue of its mass, shape, size and quantity cannot be removed in a standard refuse bin or a refuse bin liner.

**"building waste"** includes all waste produced during the construction, alteration, repair or demolition of any structure, and includes building rubble, earth, vegetation and rock displaced during such construction, alteration, repair or demolition;

**"bulky waste"** means business waste or domestic waste which by virtue of its mass, shape, size or quantity is inconvenient to remove in the routine door-to-door council service provided by the council or service provider;

**"business waste"** means waste, other than hazardous waste, medical waste, infectious waste, building waste, industrial waste, garden waste, bulky waste, recyclable waste and special industrial waste, generated on premises used for non-residential purposes;

**"by-law"** means legislation passed by the Municipality's council which is binding on persons who resides within, visiting the area of authority of the Municipality or using municipal services;

**"charges"** also means a tariff, which is an amount levied for the removal of any waste in terms of these regulations and of which the amount is determined by Council in each financial year.

**"contaminated animal carcasses, body parts and bedding"** means contaminated carcasses, body parts and bedding of animals that were intentionally exposed to pathogens in research, in the production of biologicals, or the *in vivo* testing of pharmaceuticals;

**"contaminated sharps"** means discarded sharps (e.g. hypodermic needles, syringes, pasteur pipettes, broken glass, scalpel blades) which have come into

contact with infectious agents during use in patient care or in medical, research or industrial laboratories.

**"Council"** means –

- (a) the Emakhazeni Local Municipality established in terms of Part 6 of Proclamation 300, dated 1 October 2000, exercising its legislative and executive authority through its Municipal Council; or
- (b) its successor in title; or
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these by-laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

**"cultures and stocks of infectious agents and associated biologicals"** means specimen cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals and live or attenuated vaccines and culture dishes and devices used to transfer, inoculate and mix cultures.

**"domestic waste "** means waste normally generated from a premises used as a residence or private dwelling house, including flats, schools, hostels, boarding houses, compounds, benevolent societies, churches and halls situated on private property and which can be easily removed without damaging the bin liner, but does not include business waste, building waste, garden waste or bulky waste.

**"dry industrial waste"** means dry waste generated as a result of manufacturing, maintenance, fabricating and dismantling activities and the activities of railway marshalling yards, but shall not include builders waste, special industrial waste, hazardous waste or domestic waste;

**"environment"** means the surroundings within which humans exist, made up of –

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

**"Environmental Health Practitioner"** means an official appointed by the Council, and who is duly registered as an Environmental Health Practitioner with the Health Professions Council of South Africa in terms of Section 33 (1) of the Medical, Dental and Supplementary Health Services Professions Act, 1974 (Act 56 of 1974); and has the same meaning as "health officer" in terms of the Health Act, 2003 (Act 61 of 2003).

**"garden waste"** means organic waste which emanates from gardening or landscaping activities at residential, business or industrial premises including but not limited to grass cuttings, leaves, branches, and includes any biodegradable material and excludes waste products of animal origin and bulky waste;

**"garden services"** means a garden service rendered by a private person or company within the area of the Municipality; whose activities includes the cutting of grass, pruning of trees or any other horticultural activity, landscaping, in respect of any domestic, business, commercial or industrial premises;

**"generator"** means the person or premises where any type of waste is generated and who will be held responsible to ensure that waste is removed in a manner as prescribe by Council;

**"general waste"** means waste that does not pose an immediate hazard or threat to health or to the environment, and includes— (a) domestic waste; (b) building and demolition waste; (c) business waste; (d) inert waste; or (e) any waste classified as non-hazardous waste in terms of the regulations made under section 69 of the National Waste Act as amended and includes non-hazardous substances, materials or objects within business, domestic, inert, building and demolition wastes as outlined below:

**"health care risk waste"** means waste capable of producing any disease and includes, but is not limited to the following:

- (a) laboratory waste;
- (b) pathological waste;
- (c) isolation waste;
- (d) genotoxic waste;
- (e) infectious liquids and infectious waste;
- (f) sharps waste;
- (g) chemical waste; and
- (h) pharmaceutical waste;

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

**"human blood and blood products"** means waste such as serum, plasma and other blood components;

**"illegal dumping"** means the placement of any type of waste on or at any premises, public place or anywhere other than an approved receptacle or a place designated as a waste handling facility or waste disposal facility by the Council.

**"industrial waste"** means waste generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities, but does not include building waste, business waste, special industrial waste, hazardous waste, health care risk waste or domestic waste;

**"infectious waste"** means all waste which is capable of causing an infectious disease;

**"integrated waste management plan"** means any waste management plan required to be prepared in terms of these by-laws by specified generators or holders of waste;

**"isolation wastes"**. Wastes generated by patients who have communicable diseases which are capable of being transmitted to others via those wastes;

**"litter"** means waste, excluding hazardous waste, arising from activities in public areas that has not been deposited of in a public litter container;

**"livestock"** means the same as animals;

**"mass waste container"** means a waste container, which may be used for the removal of business waste, industrial waste and garden waste,



**"miscellaneous contaminated waste"** means waste from surgery and autopsy (e.g. soiled dressing, sponges, drapes, lavage tubes, drainage sets, underpads and gloves), contaminated laboratory waste (e.g. specimen containers, slides and cover slips, disposal gloves, laboratory coats and aprons), dialysis unit waste (e.g. tubing filters, disposable sheets, towels, gloves, aprons and laboratory coats), and contaminated equipment (e.g. equipment used in patient care, medical and industrial laboratories, research and in the production and testing of certain pharmaceuticals);

**"municipality"** means the Emakhazeni Local Municipality, and has the same meaning as Council;

**"Municipal Manager"** means a person appointed in terms of Section 82 of the Local Government Municipal Structures Act, 1998 (Act 117 of 1998).

**"Municipal Systems Act"** means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) as amended;

**National Waste Act** means the National Environmental Management: Waste Act, 2008 as amended by Act 26 of 2014

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

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

**"owner"** means the registered owner, lessee or occupier of premises, or the person in charge or control of any premises or part thereof, who is over 18 years of age, and any person who obtains a benefit from the premises or is entitled thereto;

**"permit holder"** means the person to whom the permit has been issued by the Council in terms of these by-laws;

**"premises"** means any land, building or structure or any portion of land, building or structure on or in which any of the activities regulated by these by-laws are carried on thoroughfare however created which is in the undisturbed use of the public or which the public have the right to use, or any privately owned land or property;

**"provincial environmental department"** means the provincial department responsible for environmental matters;

**"public place"** means any square, park, recreation ground, sport ground, sanitary lane or open space which has-

- a) in connection with any subdivision or layout of land into erven, lots of plots, been provided, reserved or set apart for use by the public or the owner or occupiers of such erven, lots of plots, whether or not it is shown on a general plan, plan of subdivision or diagram;
- b) at any time been dedicated to the public;
- c) been used without interruption by the public for a period at least 30 years expiring after 31 December 1959; or

d) at any time been declared or rendered such by a Council or other competent authority;

**"receptacle"** means an approved container having a capacity for temporary storage of waste in terms of these by-laws;

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

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

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

**"service provider/contractor"** means the person, firm or company whose tender/quotation has been accepted by or on behalf of the Municipality and includes the contractor's heirs, executors, administrators, trustees, judicial managers or liquidators, as the case may be, but not, except with the written consent of the Municipality, any assignee of the contractor;

**"South African waste information system"** means a national waste information system established in terms of section 60 of the National Environmental Management: Waste Act

**"special industrial waste"** means waste consisting of a solid, liquid or sludge resulting from a manufacturing process or the pre-treatment for disposal purposes or any industrial liquid waste or mining liquid waste, which may not be discharged into a drain, municipal sewer or any other unauthorized public place;

**"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 these by-laws;

**"transfer station"** means a site designated by Council for the disposal and temporary storage of garden waste, small volume builders waste, bulky waste, domestic waste and business waste, and where industrial or hazardous waste, noxious waste, infectious waste and medical waste shall not be allowed.

**"unauthorized place"** means any place that was not authorized by the Municipality for the discarding of waste.

**"waste"** has the meaning as assigned to it in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) as amended and includes 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 to be abandoned, unwanted rejected, abandoned, discarded or disposed of;

**"waste picker"** means a person who salvages reusable or recyclable materials thrown away by others to sell or for personal consumption;

**"waste management activity"** means any activity listed in Schedule 1 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) as amended or published by notice in the National or Provincial Gazette under section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) as amended;

**“waste management hierarchy”** means waste management systems and options starting from generation, storage, recycling, recovery, treatment and final disposal of all type of waste; and

**“waste management officer”** means a waste management officer designated in terms of section 10 of the Waste Act.

## **6 OBJECTIVES AND PRINCIPLES**

- 1) The objectives of these by-laws are to –
  - a) give effect to the right contained in section 24 of the Constitution by regulating waste management within the area of the Municipality’s jurisdiction;
  - b) provide, in conjunction with any other applicable law, an effective legal and administrative framework, within which the Municipality can manage and regulate waste management activities;
  - c) ensure that waste is avoided, or where it cannot be altogether avoided, minimised, re-used, recycled, recovered, and disposed of in an environmental sound manner; and
  - d) promote and ensure an effective delivery of waste services.

## **7 SCOPE OF APPLICATION OF THE BY-LAW**

- 1) These by-laws must be read with any applicable provisions of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) as amended by Act No. 26 of 2014.
- 2) In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the Municipality, regulates waste management, the provisions of this by-law shall prevail to the extent of the inconsistency.
- 3) The by-laws do not override any other national and provincial waste related legislation.

## **8 PRINCIPLES**

- 1) Any person exercising a power in accordance with these by-laws must; at all times; seek to promote the waste management hierarchy approach as outlined in the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) and the National Waste Management Strategy, which is promoting waste avoidance and minimisation, waste reuse, recycling and recovery, waste treatment and disposal.
- 2) These by-laws seek to promote sustainable development and environmental justice through fair and reasonable measures for the management of waste within the Municipality’s jurisdiction.
- 3) The by-laws promote participation of all municipal residents in the promotion of responsible citizenship by ensuring sound waste management practices within residential and industrial environments.

## **9 GENERAL DUTY OF CARE**

- 1) Every person has a duty to manage any waste generated by his or her activities or the activities of those persons working under his or her direction in such a manner that the waste does not cause harm to human health or damage to the environment. In particular, the person must ensure that:
  - a) waste generation is avoided and where such waste cannot be avoided, minimise the toxicity and amounts of waste;
  - b) waste is reduced, reused, recycled or recovered;
  - c) where waste must be disposed of, the waste is treated and disposed in an environmentally sound manner;
  - d) the waste is managed in such a manner that it does not endanger health or the environment or cause a nuisance through noise, odour or visual impacts.
- 2) Any person subject to the duty imposed in subsection (1) may be required by the Municipality or an authorised official to take measures to ensure compliance with the duty.
- 3) The measures referred to in subsection (2), that a person may be required to undertake include –
  - e) investigation, assessment and evaluation of the impact that their activities, the process or a situation have on the environment;
  - f) informing and educating employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing damage to the environment;
  - g) ceasing, modifying or controlling any act, process, situation or activity which causes damage to the environment;
  - h) containing or preventing the movement of pollutants or other causes of damage to the environment;
  - i) eliminating or mitigating any source of damage to the environment; or
  - j) rehabilitating the effects of the damage to the environment.

## **10 CHAPTER 2: SERVICE PROVIDERS**

### **11 SERVICE PROVIDERS/CONTRACTORS**

- 1) The Municipality may discharge any of its obligations by entering into a service delivery agreement with a service provider or service providers in terms of the Municipal Systems Act.
- 2) Subject to the provisions of the Municipal Systems Act or any other legislation, the Municipality may assign to a service provider any power enjoyed by the Municipality under these by-laws: provided that the assignment is required for the service provider to discharge an obligation under its service delivery agreement, but the accountability shall remain with the Municipality.
- 3) Any reference in these by-laws to "Municipality or service provider" should be read as the "Municipality" if the Municipality has not entered into a service delivery agreement, and should be read as "service provider" if the Municipality has entered into a service delivery agreement.

- 4) Service providers must provide services in accordance with a customer charter which must be drawn up in consultation with the Municipality and which must-
  - a) accord with the provisions of these by-laws;
  - b) be accessible to the public;
  - c) establish the conditions of the service including collection times; and
  - d) provide for the circumstances in which Municipal services may be limited.

## **12 CHAPTER 3: PROVISION OF WASTE SERVICES**

### **13 STORAGE AND RECEPTACLES FOR GENERAL WASTE**

- 1) Any person or owner of premises where general waste is generated must ensure that such waste is stored in a receptacle provided or approved by the Municipality.
- 2) Any person or owner of premises contemplated in subsection (1) must ensure that-
  - a) the receptacle is stored inside the yard where applicable, away from the public area when still waiting for collection;
  - b) on agreed collection date, it should be placed outside the premises in an area accessible to the municipal officials or service providers;
  - c) pollution and harm to the environment is prevented;
  - d) waste cannot be blown away and that the receptacle is covered or closed;
  - e) measures are in place to prevent tampering by animals;
  - f) nuisance such as odour, visual impacts and breeding of vectors do not arise;
  - g) suitable measures are in place to prevent accidental spillage or leakage;
  - h) the receptacle is intact and not corroded or in any other way rendered unfit for the safe storage or transportation of the waste;
  - i) that a receptacle(s) provided by the Municipality is not used for any other purpose other than storage of waste;
  - j) in cases where a receptacle (s) is damaged or corroded, the owner or occupier must notify the Municipality and arrange for replacement as soon as it comes to their attention;
  - k) waste is only collected by the Municipality or authorised service provider; and
  - l) in cases where an owner or occupier is not available on the day of collection, make necessary arrangements to ensure that waste is accessible for removal or collection.

### **14 COLLECTION AND TRANSPORTATION**

- 1) The Municipality may -
  - a) only collect waste stored in approved receptacles;
  - b) set collection schedules for both commercial and residential properties for reasons of health, safety or environmental protection.

- c) collect waste outside the set schedule on request by any person and at a fixed tariff agreed to by both parties prior to collection.
  - d) set the maximum amount of quantities of waste that will be collected;
  - e) identify waste streams which may not be collected by the Municipality or which are unsuitable for collection; and where such a case exists, advise the owner of alternatives.
- 2) Any person transporting waste within the jurisdiction of the Municipality must –
- a) ensure that the receptacle or vehicle or conveyance is adequate in size and design for the type of waste transported;
  - b) remove or transport the waste in a manner that would prevent any nuisance or escape of material;
  - c) maintain the receptacle or vehicle or conveyance in a clean, sanitary condition at all times;
  - d) not permit waste transported to become detached, leak or fall from the receptacle or vehicle or conveyance transporting it;
  - e) ensure that waste is transported or deposited at a waste transfer station, recycling facility and/or disposal facility licensed to accept such waste;
  - f) ensure that the vehicle is not used for other purposes whilst transporting waste;
  - g) apply to the Municipality to register as a transporter of waste in accordance with the requirements set out by the Municipality and adhere to all the conditions attached to the registration.
- 3) Subsection (2) does not apply to transportation or collection of own recyclable waste; persons engaged in fundraising ventures or bona fide non-governmental organisations if the collection, transportation, sorting, storing, re-using or recycling of waste is not for profit.

## **15 WASTE TRANSFER STATIONS, BUY BACK CENTRES, MATERIAL RECOVERY FACILITIES OR ANY OTHER FACILITIES**

- 1) Transporters of waste, as registered in terms of section 10(2)(g) must –
- a) utilise appropriate waste transfer stations as directed by the Municipality or service provider; and
  - b) adhere to the operational procedures of a transfer station as set out by the Municipality.

## **16 WASTE DISPOSAL**

- 1) Waste generated in the municipal area must be disposed of at a waste disposal facility as directed by the Municipality.
- 2) In disposing of waste the operator of the site must comply with the provisions of any other legislation regulating the disposal of waste.
- 3) Any person disposing waste at a Municipal owned disposal site must adhere to the site operational procedures approved by the Municipality.
- 4) All private waste disposal sites within the jurisdiction of the Municipality, must comply to local norms and standards and any other relevant legislation.

## **17 CHAPTER 4: RECYCLING OF WASTE**

### **18 STORAGE, SEPARATION AND COLLECTION OF RECYCLABLE DOMESTIC WASTE**

- 1) Any person who is undertaking any activity involving reduction, re-use, recycling or recovery of waste including scrap dealers, by-back centres and formalised recycling groups must, before undertaking that activity, make sure that the activity is less harmful to the environment than the disposal of such waste and must notify the Municipality of an intention to undertake such an activity in writing.
- 2) Any person undertaking the activities contemplated in subsection (1) must adhere to the requirements set out in national or provincial legislation.
- 3) The Municipality may require any person or owner of premises to separate their waste and use different receptacles provided by the Municipality or service provider.
- 4) In cases where the Municipality, service provider or industry has provided separate receptacles for recyclable material, no person may use other receptacles for recyclable material.

## **19 CHAPTER 5: WASTE INFORMATION**

### **20 REGISTRATION AND PROVISION OF WASTE INFORMATION**

- 1) Any person who conducts an activity, which has been identified in terms of the provincial and/or national waste information system, must upon request, present to the Municipality proof that such an activity is registered and report the required information.
- 2) The Municipality may, at its own discretion and as reasonably possible, require any facility, person or activity to register and report to the Municipality any other information for the purpose of facilitating effective waste management within its jurisdiction.

### **21 PREPARATION AND REPORTING ON THE IMPLEMENTATION OF INTEGRATED WASTE MANAGEMENT PLANS BY CERTAIN GENERATORS OR HOLDERS OF WASTE**

- 1) The Municipality may, by notice published in the Provincial Gazette, require specified generators or holders of waste to prepare integrated waste management plans.
- 2) A notice referred to in subsection (1) shall specify the generators or holders of waste that need to compile an integrated waste management as well as the prescribed form required for the integrated waste management plan and the submission date for it.
- 3) Any person who is required by the Municipality to prepare an integrated waste management plan may be required to review and update the plan and to submit an amended plan at intervals specified by the Council.

## **22 CHAPTER 6: PROVISION FOR REGISTRATION OF TRANSPORTERS**

### **23 REQUIREMENTS FOR REGISTRATION**

- 1) Any person who transports waste for gain must adhere to the requirements as set out in section 25 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).
- 2) The Municipality may, by notice in the Provincial Gazette, require any person or category of transporters to register and report to the Municipality information as set out in that notice. The notice may include but not limited to-
  - a) the application forms;
  - b) a prescribed fee;
  - c) renewal intervals;
  - d) list of transporters, types and thresholds of waste transported;
  - e) minimum standards or requirements to be complied with.

## **24 CHAPTER 7: LISTED WASTE MANAGEMENT ACTIVITIES**

### **25 COMMENCEMENT, CONDUCTING OR UNDERTAKING OF LISTED WASTE MANAGEMENT ACTIVITIES**

- 1) Any person conducting a waste management activity listed in terms of section 19 of the National Environmental Management: Waste Act as amended, must upon request by an official of the Municipality, provide proof of compliance with the requirements of the licence issued by the competent authority.
- 2) Any person conducting or intending to conduct any activity contemplated in subsection 19(1) of the National Environmental Management: Waste Act as amended must, at least sixty (60) days before commencement, conducting or undertaking such activity, inform the Municipal waste management officer in writing of the intention.

## **26 CHAPTER 8: GENERAL PROVISIONS**

### **27 DUTY TO PROVIDE FACILITIES FOR LITTER**

- 1) The Municipality, or owner of premises in the case of privately owned land, must take reasonable steps to ensure that sufficient and appropriate receptacles are provided for the discarding of litter by the public, in any place to which the public has access.
- 2) The Municipality, or owner of privately owned land, must ensure that all receptacles installed on the premises for the collection of litter are –
  - a) maintained in good condition;
  - b) suitably weighted and anchored so that they cannot be inadvertently overturned;
  - c) constructed in such a manner as to ensure that they are weatherproof and animal proof;



- d) of suitable size to contain all litter likely to be generated on the premises and by the users thereof;
  - e) placed in locations convenient for the use by users or occupants of the premises to discourage littering or the unhealthy accumulation of waste; and
  - f) emptied and cleansed periodically or when full. The emptying and cleansing of receptacles must be done frequently to ensure that no receptacle or its contents may become a nuisance or provide reasonable grounds for complaint.
- 3) In any public place where a receptacle has been placed for the depositing of litter, the Municipality may put up notices about littering.

## **28 PROHIBITION OF LITTERING**

- 1) No person may –
- a) cause litter;
  - b) sweep any waste into a gutter, onto a road reserve or onto any other public place;
  - c) disturb anything in, or remove anything from any receptacle which has been placed for the purposes of collecting litter in such a manner as to cause the contents of the receptacle to spill or fall onto the ground around it; and
  - d) allow any person under his control to do any of the acts contemplated in paragraphs (a), (b) or (c) above.
- 2) Notwithstanding the provisions of subsection 9 (1), the Municipality, or owner in the case of privately owned land to which the public has access, must within a reasonable time after any litter has been discarded, dumped or left behind, remove such litter or cause it to be removed.

## **29 PROHIBITION OF NUISANCE**

- 1) Any person handling waste within the Municipality, either through storage, collection, transportation, recycling or disposal must–
- a) take reasonable measures to prevent nuisance, injury, harm, damage, annoyance or inconvenience to any person and the environment;
  - b) take measures to remedy any spillages, harm, damage or nuisance referred to in section (a) above;
  - c) at their own cost, clean any waste causing nuisance to any person or the environment; and
  - d) ensure compliance to any compliance notice issued by the Municipality in terms of section 45(1) of this by-law.
- 2) The Municipality may clean or remedy waste causing nuisance to any person or the environment, at the Municipality's cost and claim such cost from the offender.

## **30 BURNING OF WASTE**

- 1) No person may–

- a) dispose of waste by burning it, either in a public or private place; or
- b) incinerate waste either in a public or private place except in an incinerator licensed by the relevant national or provincial authorities to do so, or at a place designated by the Municipality for such purpose.

### **31 UNAUTHORISED DISPOSAL/DUMPING**

- 1) No person may, except with the permission of the occupier, owner or of the person or authority having control thereof, dump, accumulate, place, deposit, leave or cause or allow to be dumped, accumulated, placed, deposited or left any waste whatsoever, whether for gain or otherwise, on or in a public place; any drain, watercourse, flood prone areas, tidal or other water in or in the vicinity of any road, highway, street, lane, public footway or pavement, roadside or other open space to which the public have access; or private or municipal land.
- 2) The local authority may at the expense of an owner of land, person in control of land or a person who occupies the land rehabilitate any damage caused to the environment as a result of the activity or failure of the person referred to in subsection (1) above to take reasonable measures to prevent unauthorised disposal or dumping.

### **32 ABANDONED ARTICLES**

- 1) Any article, other than a motor vehicle deemed to have been abandoned in terms of the Road Traffic Act, which, in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition of such article, is reasonably regarded by the Municipality as having been abandoned, may be removed and disposed of by the Municipality as it may deem fit.
- 2) The Municipality may remove and dispose of any article which is chained or fastened to any pole, parking meter or any other property belonging to the council, without authorisation, as it may deem fit.

### **33 LIABILITY TO PAY APPLICABLE TARIFFS**

- 1) The owner of premises where the Municipality is rendering waste services contemplated in this by-law is liable for the payment of prescribed tariffs for such services, and is not exempted from or reduction of such tariffs due to non-usage, partial or limited use of such services.
- 2) The Municipality reserves the right to review such tariffs contemplated in subsection (1) above on an annual basis.
- 3) The Municipality may exempt any person or category of persons deemed to be falling in the indigent category from paying prescribed tariffs for waste management services as outlined in the Municipal Indigent Policy.

### **34 ON-SITE DISPOSAL**

- 1) The Municipality may, as it deems fit, in an area where a municipal waste management service is not already provided, after consultation with the

concerned community, declare an area(s) as demarcated for on-site disposal of general waste.

- 2) A declaration contemplated in subsection (1) above must be published in a Provincial Gazette and may include but not limited to—
  - a) time frames for such a declaration;
  - b) minimum standards to be adhered to for on-site disposal; and
  - c) quantity of waste that may be disposed.
- 3) The Municipality has a right to inspect the areas contemplated in subsection (1) on a regular basis.

### **35 CONDUCT AT DISPOSAL SITES**

- 1) Any person who, for the purpose of disposing of waste enters a waste disposal site controlled by the Council shall –
  - a) enter the disposal site only at an authorised access point;
  - b) give the Council all the particulars required in regard to the composition of the waste; and
  - c) follow all instruction(s) given to him/her in regard to access to the actual disposal point, the place where and the manner in which the waste should be deposited.
- 2) No person shall bring intoxicating liquor onto a disposal site controlled by the Council.
- 3) No person shall enter a disposal site controlled by the Council for any purpose other than the disposal of waste in terms of this by-law and then only at such times as the Council may from time to time determine.

### **36 OWNERSHIP OF WASTE**

- 4) All waste removed by the Council and all waste disposal sites controlled by the Council shall be the property of the Council and no person who is not authorised by the Council to do so, remove or interfere therewith.
- 5) Only waste which is generated on premises within the Council's area of jurisdiction may be disposed of on the Council's waste disposal sites.

### **37 STORAGE, COLLECTION, COMPOSTING AND DISPOSAL OF GARDEN WASTE**

- 1) The owner or occupier of the premises on which garden waste is generated, may compost garden waste on the property, provided that such composting does not cause a nuisance or health risk.
- 2) The owner or occupier of the premises on which garden waste is generated and not composted, must ensure that such waste is collected and disposed within a reasonable time after the generation thereof.
- 3) The Municipality may, as far it is reasonably possible, direct any transporter of garden waste or any person providing garden maintenance services, to

transport their garden waste to a designated transfer station or facility provided by the Municipality.

- 4) At the written request of the owner or occupier of premises the Municipality or service provider may, in its sole discretion, deliver an appropriate receptacle for the purpose of storing garden waste in addition to any approved receptacle delivered to the premises for the storage of domestic waste; at a prescribed additional tariff.

### **38 COLLECTION AND DISPOSAL BULKY WASTE**

- 1) Any person generating bulky waste must ensure that such waste is collected and recycled or disposed of at a designated facility and may not put such waste as part of the municipal routine collection.
- 2) At a request of the owner or occupier of any premises, the Municipality may remove bulky waste from premises at a prescribed tariff, provided that the Municipality is able to do so with its refuse removal equipment. All such waste shall be placed within 3m of the boundary loading point, but not on the sidewalk.
- 3) In case a Municipality has been called to remove illegally dumped waste on vacant land, the Municipality may remove that waste subject to subsection (2) and charge the owner of that vacant land.

### **39 GENERATION, STORAGE, COLLECTION, REUSE AND DISPOSAL OF BUILDING WASTE**

- 1) The owner or occupier of premises on which building waste is generated and person conducting an activity which causes such waste to be generated, must ensure that—
  - a) until disposal, all building waste, together with the containers used for the storage, collection or disposal thereof, is kept on the premises on which the waste was generated;
  - b) the premises on which the building waste is generated does not become unsightly or cause a nuisance as a result of accumulated building waste;
  - c) any building waste which is blown off the premises is promptly retrieved; and
  - d) pursuant to any instructions from the Municipality, any structure necessary to contain the building waste is constructed.
- 2) Any person may operate a building waste removal service subject to adherence to relevant legislation.
- 3) Should the Municipality provide such a service, it shall be done at a prescribed tariff.
- 4) The owner or occupier of premises may apply to the Municipality for written consent to place an appropriate receptacle for the storage and collection of building waste in the road reserve for the period of such consent.
- 5) If containers or other receptacles used for the removal of builders waste, bulky waste of other waste material from premises can in the opinion of the Council not to be kept on the premises, such containers or other receptacles may with

the written consent of the Council be placed in the roadway for the period of such consent.

- 6) Any consent given in terms of subsection (5) shall be subject to such conditions as the Council may deem necessary: Provided that in giving or refusing its consent or in laying down conditions the Council shall have regard to the convenience and safety or the public.
- 7) The written consent of the Council referred to in subsection (5) shall only be given on payment of the tariff charge for the period of such consent.
- 8) Every receptacle, authorised in terms of subsection (4) above and used for the removal of building waste, must –
  - a) have a clearly marked name, address and telephone number of the person in control of such approved receptacle;
  - b) be fitted with reflecting chevrons or reflectors which must completely outline the front and the back thereof; and
  - c) be covered at all times other than when actually receiving or being emptied of such waste so that no displacement of its contents can occur.
- 9) The owner or occupier of premises on which building waste is generated must ensure that the waste is disposed of at a facility designated for that purpose by the Municipality.
- 10) For the purpose of reclamation of land, reuse or recycling, building waste may with written consent of the Municipality, be deposited at a place other than the Municipality's waste disposal sites.
- 11) A consent given in terms of subsection (7) above shall be subject to the conditions, as the Municipality may deem necessary.

#### **40 SPECIAL INDUSTRIAL, HAZARDOUS OR HEALTH CARE RISK WASTE**

- 12) Any waste generator who generates special industrial, hazardous or health care risk waste or an owner of premises where such waste is generated must contract with an accredited service provider to collect and dispose of such waste at a licensed hazardous waste disposal facility.
- 13) Subsection (1) above does not apply to generators of waste who have the capacity to conduct the service.
- 14) Any person transporting industrial, hazardous or health care risk waste must ensure that the facility or place to which such waste is transported is authorised to accept such waste prior to offloading the waste from the vehicle.
- 15) Special industrial waste stored on premises shall be stored in such manner that it cannot become a nuisance or pollute the environment.
- 16) If special industrial waste is not stored in terms of subsection (15) on the premises on which it is generated, the Council may order the owner of the premises and the person referred to in subsection (12) to remove such waste within a reasonable time and, if thereafter such waste is not removed within such time, the Council may by itself or through a contractor remove it for the owner's expense.

## **41 CHAPTER 9: ADMINISTRATIVE MATTERS, COMPLIANCE AND ENFORCEMENT**

### **42 AUTHORISED OFFICIALS**

- 1) The Municipality must appoint authorised officials vested with the power to exercise the powers of an authorised official under these by-laws and to discharge the Municipality's right of access to premises in terms of section 101 of the Municipal Systems Act.
- 2) An authorised official is not a peace officer within the meaning of the Criminal Procedure Act, 1977 (Act 51 of 1977) and has no powers of arrest in respect of any offence created in these by-laws.
- 3) In appointing an authorised official, the Municipality must have regard to a person's technical understanding and experience of matters related to waste management; and any other factor that may be relevant to supervision and enforcement of these bylaws, whether technical or administrative.
- 4) An authorised official may be an employee of the Municipality or any service provider of the Municipality, but neither the service provider nor any of its employees may be involved in enforcing compliance with these by-laws by licensees.
- 5) Upon appointment, authorised officials must be issued with a means of identification by the Municipality which must state the name and function of the authorised official, and must include a photograph of the officer.
- 6) An authorised official, acting within the powers vested in him by these by-laws, is required to:
  - a) present identification on demand by any member of the public;
  - b) liaise with or co-ordinate action with any environmental management inspector designated under the National Environmental Management Act, 1998 (Act 107 of 1998) enforcing the National Environmental Management Act, 1998 (Act 107 of 1998) or any specific environmental management Act within the Municipality.

### **43 POWERS OF AUTHORISED OFFICIALS**

- 1) An authorised official may, with the consent of the owner or person in charge of a vehicle or other mode of conveyance, search that vehicle or other mode of conveyance found in any place.
- 2) If consent is not obtained the vehicle or other mode of conveyance may be searched or stopped and searched, only pursuant to a valid written authorisation issued by a justice of the peace as contemplated in sections 3 and 4 of the Justices of the Peace and Commissioners of Oaths Act, 1963 (Act No. 16 of 1963).
- 3) If, following a search, an authorised official believes that the presence of waste in or on such vehicle or other mode of conveyance is a serious and immediate danger to human health or to the environment, the authorised official must instruct the owner or person in control of the vehicle concerned in writing to take the necessary steps specified in that instruction to mitigate harm to human health or damage to the environment.

- 4) In the event of a refusal or failure to comply with an instruction given in terms of sub-section 3 above, the authorised official may report the matter to the closest branch of the South African Police Services with a view to seizure of the vehicle concerned in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).
- 5) An authorised official may subject to Section 101 of the Systems Act, enter any premises if a justice of the peace as contemplated in Section 3 and 4 of the Justices of the Peace and Commissioners of Oaths Act, 1963 (Act No. 16 of 1963), has issued a written authorization to enter premises, for the purposes of ascertaining compliance with these by-laws.
- 6) The authorised official with a written authorisation referred to in subsection (5) above is allowed to
  - a) inspect any document that a person is required to maintain in terms of any law or that may be relevant to any work or inspection;
  - b) copy any document referred to in paragraph (a) above or if necessary, remove the document in order to copy it;
  - c) take samples of any substance that is relevant to the work or inspection; and
  - d) take photos or make audio-visual recordings of anything or any person, process, action or condition on or regarding any premises.

#### **44 COMPLIANCE NOTICES**

- 1) If, in the opinion of an authorised official, a person is contravening any provision of these by-laws, that official may in writing issue a compliance notice and serve it on the person concerned.
- 2) An authorised official who is satisfied that the person served with the compliance notice has complied with the terms of the notice may issue a compliance certificate to that effect.
- 3) A compliance notice remains in force until an authorised official has issued a compliance certificate in respect of that notice.
- 4) A compliance notice must set out:
  - a) the provision that has not been complied with;
  - b) details of the nature and extent of noncompliance;
  - c) any steps that are required to be taken and the period within which those steps must be taken; and
  - d) any penalty that may be imposed in terms of these by-laws in the event of noncompliance with these steps.

#### **45 EXEMPTIONS**

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

- a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted be stipulated therein;
  - b) alter or cancel any exemption or condition in an exemption; or
  - c) refuse to grant an exemption.
- 3) In order to consider an application in terms of subsection (1), the Municipality may obtain the input or comments of the owners or occupants of surrounding premises.
  - 4) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the Municipality under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the Municipality, the exemption lapses.
  - 5) If any condition of an exemption is not complied with, the exemption lapses immediately.

## **46 APPEALS**

- 1) A person whose rights are affected by a decision taken by the Municipality in terms of these by-laws, may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, to the Municipal Manager or delegated official within 21 days of the date of the notification of the decision.

## **47 OFFENCES**

- 2) Any person who –
  - a) obstructs or hinders the Municipality in exercising the powers or performance of functions or duties as outlined in this by-laws;
  - b) contravenes or fails to comply with any provision of these by-laws; or
  - c) fails to comply with the terms of a notice served upon him or her in terms of these by-laws, shall be guilty of an offence.

## **48 PENALTIES**

- 1) Any person who contravenes or fails to comply with a provision of these by-laws is guilty of an offence and liable on conviction to imprisonment for a period not exceeding fifteen years or to a fine or to both such fine and imprisonment.

## **49 SHORT TITLE AND COMMENCEMENT**

- 1) These by-laws are called the Integrated Waste Management By-laws of the Emakhazeni Local Municipality, and take effect on the date determined by the Municipality in the Provincial Gazette.
- 2) Different dates may be so determined for different provisions of these by-laws.

## **50 REPEAL OF BY-LAWS**

- 1) Any by-law relating to waste management or refuse removal or disposal within the Municipality or any of its predecessors or areas formerly existing under



separate Municipalities or other organs of State is repealed from the date of promulgation of these by-laws.