Drakenstein, South Africa

Integrated Waste Management By-law, 2013

Legislation as at 11 March 2016

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Drakenstein
South Africa

Integrated Waste Management By-law, 2013

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

Chapter 1
General provisions

1. Definitions and interpretation

In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa; in the event of a conflict between die English and Afrikaans versions of this by-law, the English version shall be decisive; and unless the context otherwise indicates -

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

"**applicable charge**" means the rate, charge, tariff, flat rate, subsidy or any other cost prescribed by the municipality;

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

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

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

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

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

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

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

"**business waste**" means waste, other than hazardous waste, health care waste, building waste, industrial waste, garden waste, bulky waste, special waste and special industrial waste generated on premises used for commercial purposes and at residential premises where commercial activities are being conducted;

"**by-product**" means a substance that is produced as part of a process that is primarily intended to produce another substance or product and that has the characteristics of an equivalent virgin product or material;

"**collection**" means the act of collecting waste at the place of generation or storage by the municipality or a licensed service provider and removal has a similar meaning;

"**commercial services**" means any waste management service, relating or connected to accumulating, collecting, managing, recycling, sorting, storing, treating, transporting, disposing, buying or selling of waste or any other manner of handling waste excluding services rendered by the municipality;

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

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

"**DEA**" means the national Department of Environmental Affairs;

"**DEA&DP**" means the provincial Department of Environmental Affairs and Development Planning;

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

"**domestic hazardous waste**" means hazardous waste generated in a household in minimum quantities consistent with the home use of materials such as paints and solvents, automotive wastes, pesticides, electronics, aerosols, cleaning agents, batteries, fluorescent lamps and refrigerant containing appliances;

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

"**domestic waste**" means waste that emanates from premises used wholly or mainly for--

(a) residential purposes;

(b) educational, sport or recreational purposes; and

(c) purposes of public worship, including a hall or other building used for religious purposes, and includes domestic health care waste and domestic hazardous waste; but excludes hazardous waste, business waste, building waste, garden waste, bulky waste, special waste, liquid matter or night soil;

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

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

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

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

"**enforcement notice**" means any notice issued by an authorised official under this by-law which instructs the person to whom it is issued to comply with the terms of the notice, and includes a compliance notice contemplated in section 57;

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

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

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

"**e-waste**" means electric and electronic equipment waste such as lighting equipment, circuit boards, mobile phones, computers, television sets and audio visual equipment that are still mainly treated as domestic or business waste but with a high need and potential for recycling;

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

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

"**general waste**" means waste that does not pose an immediate hazard or threat to health or to the environment;

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

"**hazardous chemical substance**" means any toxic, harmful, corrosive, irritant or asphyxiant substance, or a mixture of such substances for which-

(a) an occupational exposure limit is prescribed;

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

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

"**health care risk waste**" means all hazardous waste generated at any health care facility such as a frail care centre, hospital, clinic, laboratory, medical research institution, dental or medical practitioner or veterinarian including but not limited to infectious waste, pathological waste, sharp waste, pharmaceutical waste, genotoxic waste, chemical waste, pressurized container waste, waste with heavy metals, radio-active waste, or any waste that has been in contact with blood, bodily fluids or tissues from humans or infected animals from veterinary practices;

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

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

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

"**inert waste**" means waste that -

(a) does not undergo any significant physical, chemical or biological transformation after disposal;

(b) does not burn, react physically or chemically biodegrade or otherwise adversely affect any other matter or environment with which it may come into contact; and

(c) does not impact negatively on the environment, because of its pollutant content and because the toxicity of its leachate is insignificant;

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

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

"**interest**" means a levy with the same legal property as service fees and calculated in terms of this by-law on all amounts in arrears in respect of prescribed fees for waste management services at a standard rate equal to an interest rate as determined by the municipality;

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

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

"**litter**" means any object or matter which is discarded by a person in any place except in an approved container provided for that purpose or at a waste disposal facility or a waste handling facility;

"**minimisation**" means the steps taken by the municipality, residents, businesses and industries to avoid and reduce the amount and toxicity of waste generated and disposed of;

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

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

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

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

"**NEMA:WA**" means the National Environmental Management: Waste Act, 2008 (Act 59 of 2008);

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

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

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

(b) any person legally entitled to occupy those premises;

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

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

(e) the owner of those premises;

"**owner**" includes -

(a) the person in whom is vested the legal title to premises, including, but not limited to, the registered owner according to the title deed;

(b) where the person in whom the legal title to the premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;

(c) in any case where the municipality is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such premises or a building or buildings thereon; and

(d) in the case of premises for which a lease agreement of ten years or longer has been entered into and registered in the Deeds Office, the lessee thereof;

(e) in relation to

(i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act 95 of 1986), the developer or the body corporate in respect of the common property; or

(ii) a section as defined in the Sectional Titles Act, the person in whose name such section is registered under a sectional title deed, and includes the lawfully appointed agent of such a person;

(f) the person who has purchased immovable property from the municipality, in terms of a scheme that allows for the purchase price to be paid in instalments and who has not received transfer from the municipality;

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

"**pollution**" means any change in the environment caused by -

(a) substances; or

(b) radioactive or other waves; or

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

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

"**prescribed fee**" means a fee including a tariff or charge determined by council resolution;

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

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

"**public place**" includes any public building, public road, overhead bridge, subway, foot pavement, footpath, sidewalk, lane square, open space, garden, park, sports ground enclosed space vested in a

municipality, and any road, place or thoroughfare however created which is in the undisturbed use of the public or which the public has the right to use or the right to access;

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

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

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

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

"**recovery**" means a process where waste is reclaimed, which process could involve the separation of waste from a waste stream for further use;

"**recyclable waste**" means waste that could be separated from the waste stream and set aside for purposes of re-use;

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

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

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

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

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

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

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

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

"**Systems Act**" means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

"**tariff**" means the annually revised user charge for the provision of the municipal service, determined by the municipality;

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

"**waste**" means any substance, whether or not that substance can be reduced, re-used, recycled and recovered -

(a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;

(b) which the generator has no further use of for the purposes of production

(c) that must be treated or disposed of; or

(d) that is identified as a waste by the Minister by notice in the Gazette, and includes waste generated by the mining, medical or other sectors, but[2]

(i) a by-product is not considered waste; and

(ii) any portion of waste, once re-used, recycled and recovered ceases to be waste;

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

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

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

"**waste information system**" means SAWIS;

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

"**waste management officer**" means a person designated by the municipality for co-ordinating matters pertaining to waste management.

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

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

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

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

"**working day**" means a day other than a Saturday, Sunday or public holiday but in the context of the municipality's waste handling and waste disposal facilities it includes all calendar days except Sundays, and religious public holidays.

2. Principles

(1) The municipality has the responsibility to ensure that all waste generated within the municipal area is -

(a) collected, disposed of or recovered in accordance with this by-law; and

(b) such collection, disposal or recovery takes account of the waste management hierarchy outlined in subsection (2).

(2) The principle underpinning this by-law is the establishment of a waste management hierarchy in the following order of priority -

(a) avoidance, minimisation and reduction of waste;

(b) re-use of waste;

(c) recycling, re-claiming, reprocessing and treatment of waste; and

(d) disposal of waste.

(3) An authorised official must as is reasonably possible, take the hierarchy specified in subsection (2) into account.

Repealed

3. Main objectives

(1) The main objectives of this by-law are-

(a) to regulate the collection, handling, storage, transport, recycling, treatment and disposal of waste;

(b) to promote the pursuance of an integrated waste management approach;

(c) to regulate the provision of municipal services by a service provider and commercial services by licensees; and

(d) to enhance sustainable development.

(2) In pursuing the main objects of this by-law, the municipality shall, within its financial and administrative capacity -

(a) endeavour to ensure local community involvement in waste planning;

(b) endeavour to minimise the consumption of natural resources;

(c) promote the recycling and re-use of waste;

(d) encourage waste separation to facilitate re-use and recycling;

(e) promote the effective resourcing, planning and delivery of municipal services and commercial services;

(f) endeavour to achieve integrated waste management, planning and services in a local context;

(g) promote and ensure environmentally responsible municipal services and commercial services; and

(h) endeavour to ensure compliance with the provisions of this by-law.

4. Duties and obligations

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

(a) reduce or avoid waste generation and minimise the toxicity of waste generated;

(b) re-use, recycle and recover waste;

(c) dispose waste in an environmentally sound manner;

(d) manage waste in a manner not endangering health or the environment and cause no nuisance related to sight, noise or odour;

(e) prevent waste from being used for an unauthorised purpose including the prevention of persons under his supervision from contravening this by-law;

(2) A person who sells a product which may be used by the public and is likely to result in the generation of hazardous waste must take all reasonable steps to inform the public of the impact of that waste on health and the environment.

(3) Any person subject to the duties and obligations imposed in subsections (1) and (2) may be required by the municipality or an authorised official to take measures to ensure compliance with these duties and obligations, which measures may be to -

(a) investigate and evaluate the impact on the environment;

(b) inform and educate employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing significant pollution or degradation of the environment;

(c) cease, modify or control any act, activity or process causing the pollution of degradation;

(d) contain or prevent the movement of pollutants or the cause of degradation;

(e) eliminate any source of the pollution or degradation;

(f) remedy the effects of the pollution or degradation.

Chapter 2
Integrated waste management

5. Waste management plans

(1) The municipality must -

(a) establish, review and revise its integrated waste management plan in accordance with the prescriptions of national legislation;

(b) annually report on the implementation of its integrated waste management plan; and

(c) follow prescribed processes of community consultation with regard to subsections (1)(a) and (b).

(2) A person who wishes to organise or host an event in the municipal area must at least one month prior to the event taking place submit to the municipality a waste management plan that includes the waste management services to be provided and such other information as required by the municipality.

(3) The municipality may grant conditional exemption in terms of subsection (2) depending on the size, nature and duration of the event;

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

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

(6) The municipality may require from any other holder of waste, excluding domestic waste, to submit within a reasonable time and thereafter at intervals determined by the municipality an integrated waste management plan containing such information as the municipality deems necessary or, if applicable, a copy of its industry waste management plan as required by national legislation.

(7) If an integrated waste management plan as referred to in subsections (4), (5) or (6) is in any way changed or amended, the holder of waste must submit such changed or amended plan to the municipality.

6. Waste information system

(1) The municipality must establish and maintain a waste information system including information on the levels and extent of waste management services provided by it and enters such information on the SAWIS and the provincial waste information system as and when required.

(2) The municipality may require from a holder of waste to submit within a reasonable time or on a regular basis such data, documents, information, samples or materials;

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

7. Waste minimisation and recycling

(1) The municipality must, in accordance with its responsibilities and its resources, progressively implement measures to reduce waste and promote the recovery, re-use and recycling of waste including waste separation at source.

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

8. Waste management activities

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

(2) The municipality's approval, inspection and monitoring of waste storage facilities, vehicle scrapping or recovery facilities and any other facilities where materials suitable for re-use or recycling are recovered must be in accordance with national and provincial legislation and standards and the municipality's by-laws and may require the owners or occupiers of these premises to submit such information, plans and records as the municipality deems necessary to fulfil its duties as a waste management authority.

Chapter 3
Collection of waste

9. Levels of service

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

(a) on-site and regularly supervised or monitored disposal;

(b) community transfer to a central collection point;

(c) organised transfer to a central collection point and kerbside collection; and

(d) a combination of these levels.

10. Compulsory use of service

(1) Subject to the provisions of section 66, no one except the municipality or a person authorised by the municipality may remove any waste from any premises or dispose thereof and each owner of premises must make use of the service provided by the municipality for the removal or disposal of waste.

(2) The tariff for waste removal as fixed by the municipality shall be payable to the municipality by the owner, irrespective whether the service is being used, or not, except where exemption is granted in terms of section 66.

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

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

(5) The municipality may determine which waste items are unsuitable for collection if it does not constitute domestic waste or business waste or could be classified as bulky waste, and if waste is determined to be unsuitable for collection, a process for removal and disposal of such waste may be recommended by the municipality to the owner of the waste or occupier of the premises.

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

(7) Complaints about the waste collection service will be dealt with in accordance with the municipality's customer care policy.

11. Frequency

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

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

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

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

12. Volume

(1) The municipality may determine -

(a) the number of containers to be collected from each residential premise per collection;

(b) the number of containers to be collected from each business premise per collection based on an inspection of the waste volumes with the owner or occupier; and

(c) the maximum amount of business waste that may be placed for collection without the provision of an additional service or the payment of an additional prescribed fee.

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

Repealed

13. Containers

(1) The municipality will collect domestic and business waste placed in approved containers from a location and in a condition as determined. Waste placed in a location or a container not meeting the prescriptions of the municipality will not be collected.

(2) The municipality shall in accordance with the collection service rendered in an area, supply:

(a) each individual household in high density areas with two refuse bags per week;

(b) each single urban residential premise with one container;

(c) each group development or other premises such as schools, churches and hospitals generating domestic waste with the number of containers determined by the municipality; and

(d) each business premise with the number of containers as determined by the municipality.

(3) Should the owner or occupier of a business premise or a residential premise including a group development require additional containers, either by written request or as required by the municipality, the municipality will supply such additional containers as agreed and may do so at an extra cost including a repayable deposit that the owner or occupier must pay before delivery thereof to the premises.

(4) Containers supplied by the municipality in terms of subsections (2) and (3) must:

(a) have serial numbers linked to the service agreement of the owner or occupier of the premises with the municipality;

(b) remain the property of the municipality;

(c) be returned to the municipality upon termination of the service agreement by the owner or occupier of the premises and if a refundable deposit was paid for it such deposit will be refunded to the owner or occupier of the premises provided the receptacle is in the opinion of the municipality still in a usable condition;

(d) be replaced by the municipality free of cost if such replacement is in the opinion of the municipality warranted due to normal wear and tear;

(e) in case of theft-

(i) if it is a first occurrence, be replaced free of cost by the municipality;

(ii) if it is a second occurrence, be replaced at fifty percent of the cost thereof by the municipality; or

(iii) if it occurs for a third or more times, be replaced at hundred percent of the cost thereof by the municipality; provided the municipality receives a written request for such replacement including documentary proof of the case being reported to a police station;

(5) Where the municipality notices the absence of a container and no request for replacement has been lodged, it may replace it and recover the cost from the owner or occupier.

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

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

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

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

(10) The owner or occupier of business or residential premises must ensure that -

(a) a container contains no hot ash, unwrapped glass or other domestic waste, business waste including dailies which may cause injury to the municipal employees while carrying out their duties or damage to the container;

(b) no material, including any liquid, which by reason of its mass or other characteristics is likely to render a container unreasonably difficult for the municipal employees to handle or carry, is placed in such receptacle;

(c) containers are kept closed and in a clean and hygienic condition to avoid animal and insect interference and wind-blown litter;

(d) containers are placed outside the entrance to the premises on a date and time specified by the municipality by written notice to the owner or occupier of the premises;

(e) in accordance with the municipality's specifications, space and any other facility deemed necessary by the municipality be provided on the premises for the storage of containers without these being visible from a public road or public place and the space so allowed permitting convenient access to and egress for the municipality's waste collection vehicles.

(f) the pavement in front of or abutting the premises is kept clean and free of waste.

(11) If dailies are generated, the owner or occupier must ensure that-

(a) the dailies are not placed in a container where they could contaminate another waste stream;

(b) the containers are placed not more than 20 metres from the entrance to the premises from where the waste is collected by the municipality.

[sub section (11) re-numbered by Correction notice, 2016]

(12) Notwithstanding anything to the contrary contained in this by-law, the municipality may, having regard to the avoidance of a nuisance and the convenience of collection of waste, indicate a specific position within or outside the premises concerned where containers must be placed for the collection and removal of waste and such containers must then be placed in that position at such times and for such period as the municipality may require.

[sub section (12) re-numbered by Correction notice, 2016]

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

[sub section (13) re-numbered by Correction notice, 2016]

14. Communal collection

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

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

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

(4) The bulk containers must be in accordance with the municipality's specifications and its locations will as far as reasonably possible-

(a) allow secure and easy access to the community;

(b) prevent windblown litter;

(c) enable easy access for the municipality's waste collection vehicles.

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

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

15. Collection in rural areas

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

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

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

16. Recycling

(1) Any owner or occupier of a business or residential premise or any other holders of waste as determined by the municipality and in areas as determined by the municipality may be required to-

(a) separate their waste in recyclable, e.g. e-waste; plastics, paper and glass and non-recyclable waste in accordance with the directives of the municipality;

(b) use different containers for waste so separated as directed or provided by the municipality;

(c) place containers containing the recyclable waste outside the entrance to the premises at a time and day specified by the municipality or, if so requested, drop containers off at places as directed by the municipality; and

(d) follow any other reasonable prescribed procedures.

(2) The municipality may locate drop-off centres for recyclables at places ensuring easy and safe access for the public.

17. Accumulation of waste

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

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

(3) The municipality may enter any premises where waste of any type is accumulated and may instruct the person generating the waste or the owner or the occupier of the premises where it is so accumulated to remove the waste immediately or the municipality may proceed to do so at the cost of the person responsible for the accumulation.

Chapter 4
Handling differnt waste types

Part 1 – Garden waste

18. Composting

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

19. Removal and disposal of garden waste

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

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

Part 2 – Bulky waste

20. Removal and disposal

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

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

Part 3 – Building waste

21. Plans and inspection

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

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

22. Generation and storage

(1) Notwithstanding the waste arrangements contemplated in section 21, the owner or occupier of premises on which building waste is generated or the person engaged in any activity which causes such waste to be generated, must ensure that-

(a) all building waste and the containers used for the storage thereof is kept on the premises on which the building waste is generated;

(b) the premises on which the building waste is generated does not become unsightly or cause a nuisance as a result of accumulated building waste;

(c) any building waste which is blown off the premises, is promptly retrieved.

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

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

23. Removal and disposal

(1) The owner or occupier of premises on which building waste is generated or the person engaged in any activity which causes such waste to be generated, must ensure that all building waste is removed and disposed of continuously during construction so as to prevent unnecessary accumulation of such waste.

(2) Building waste must be disposed of at a waste handling or waste disposal facility determined by the municipality.

Part 4 – Special industrial, health care and hazardous waste

24. Notification and verification

(1) A person that engages in activities which will generate special industrial, hazardous or health care waste must prior to the generation of such waste, notify the municipality in writing of-

(a) the expected or known composition of such waste;

(b) the quantity to be generated

(c) how and where it will be stored,

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

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

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

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

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

(b) safety data sheets or completed waste documents; and

(c) such other records required to verify compliance with applicable legislation, national standards and SANS Codes.

(4) The person referred to in subsection (1) or (2) mus,t when changes occur and annually before or on the 30th of June submit to the municipality a written report containing-

(a) the information stipulated in subsection (1);

(b) the substantiating documents referred to in subsection (3); and

(c) any other information which the municipality may reasonably require.

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

25. Storage

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

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

26. Collection and disposal

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

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

Part 5 – Industrial waste and special waste

27. Storage

The owner or occupier of premises on which industrial waste or special waste is generated must ensure that until such time as the waste is collected by a licensed service provider from the premises on which it was generated-

(a) the waste is stored in accordance with applicable legislation, national standards and SANS Codes in approved containers which are not kept in a public place; and

(b) no nuisance, health risk or environmental damage is caused by the waste in the course of generation or storage.

28. Collection and disposal

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

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

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

Part 6 – Tyres, disused vehicles or machinery and scrap metal

29. Storage and disposal

(1) No owner or occupier of premises with an operational area in excess of the statutory determined limit in terms of GN R718 dated 7 July 2009 (List of waste management activities that are likely to have a detrimental effect on the environment) may temporary accumulate, store or stockpile waste tyres, disused, scrapped, dismantled or recovered vehicles or machinery or scrap metal unless the waste management activity is managed in accordance with national standards or licensed in terms of national legislation, whichever is applicable.

(2) Waste as contemplated in sub section (1) are not accepted at any of the municipality's own waste handling or waste disposal facilities and any person having to dispose of any of these materials must dispose thereof at a waste disposal site as directed by the municipality and in terms of conditions determined for such waste disposal site.

(3) The municipality may enter the premises of any person contemplated in sub section (1) and request proof of any plans including its integrated waste management plan, licenses or other applicable documents to verify compliance with applicable legislation.

Part 7 – Recyclable waste

30. Storage, collection and disposal

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

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

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

Repealed

Part 8 – Agricultural and farm waste

31. Disposal

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

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

(3) An owner or occupier of farm land may dispose of general waste, which may include agricultural and farm waste, to the land provided this is done in accordance with applicable legislation, national standards and SANS Codes and, if the quantity of waste requires it, authorisation thereof by a valid waste management license.

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

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

Chapter 5
Transportation and disposal

Part 1 – Transportation of waste

32. Safe transportation

No person may-

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

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

33. No wastage or spillage

A person transporting waste through the municipal area must ensure that-

(a) loose waste on an open vehicle is covered with a tarpaulin or suitable net; and

(b) no waste become detached, leak or fall from the vehicle transporting it.

34. Legal compliance

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

Repealed

Part 2 – Waste disposal

35. Permitted use

(1) The municipality may prescribe which types of waste may be disposed of at a particular waste handling or waste disposal facility as permitted in terms of the license stipulations of each facility.

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

36. Liability

(1) No person may dispose of waste at a waste disposal facility which is not licensed for such use and any person who contravenes any prescriptions of the municipality as contemplated in section 35(1) will be liable for all reasonable costs incurred by the municipality in removing or otherwise dealing with the waste improperly disposed.

(2) The municipality shall not be liable for any claim resulting from access to any waste handling or waste disposal facility and any person who enters any of the sites of these facilities does so at own risk.

37. Conduct at facilities

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

(2) Every person who, for the purpose of disposing waste enters a waste handling or a waste disposal facility must-

(a) enter and leave the facility at the designated entrance and exit points;

(b) supply all the particulars required regarding the source and composition of the waste, which waste may be inspected by the municipality;

(c) follow all instructions with regard to access to the actual disposal, transfer or recycling point and the place where and the manner in which the waste should be deposited; and

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

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

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

38. Accepting waste from others

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

(2) The municipality may allow a person to dispose waste generated outside the municipality's municipal area at a designated waste disposal facility of the municipality provided such person first becomes a licensed service provider as provided for in this by-law.

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

Chapter 6
Littering and dumping

39. Provision of facilities for waste

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

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

40. Littering and dumping

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

(2) An authorised official may act against any of the contraventions listed in subsection (1) through a written notice directing such person to-

(a) cease the contravention within a specified time;

(b) prevent a repeat of the contravention or a further contravention;

(c) take whatever measures that the municipality considers necessary to clean up or remove the waste and rehabilitate the affected environment within a specified time; or

(d) to pay a fine or appear in court in terms of section 56 of the Criminal Procedure Act, 1977 (Act 51 of 1977);

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

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

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

41. Burning of waste

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

42. Abandoned objects

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

Repealed

Chapter 7
External service providers

Part 1 – Licensed service providers for commercial services

43. Licence applications

(1) No person may provide commercial services for the collection and transport of waste in the municipal area unless he or she has registered with the municipality and obtained a licence authorising these waste management activities.

(2) An application for a license must be submitted in writing in a format or on a form prescribed by the municipality accompanied by the prescribed fee and, unless subsection (3) applies, the municipality's prior approval for the collection and transportation of waste.

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

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

(5) Registration as a service provider does not entitle the service provider to render a removal servicewithout the municipality's approval of an exemption in terms of section 66.

44. Terms and conditions of licences

(1) A licence must-

(a) clearly identify the license holder;

(b) specify the licence period;

(c) specify the categories of waste which the licensed service provider may collect, transport and dispose;

(d) outline the information recording and submission requirements of the municipality for its own integrated waste management plan and SAWIS; and

(e) specify other procedural matters that may be necessary.

(2) A licence-

(a) may not be ceded or assigned without the prior written consent of the municipality;

(b) is valid for one year from the date of issue; and

(c) is valid only for the categories of waste specified therein.

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

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

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

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

45. Renewal of licences

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

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

46. Suspension and revocation of licences

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

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

(3) Irrespective of a representation being made by the licensed service provider, the municipality must notify him or her of its decision within 14 days after expiry of the time given for response.

47. Licence exemptions

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

48. Consumer responsibilities

(1) The owner or occupier of premises or the holder of waste that contracts with a licensed service provider must ensure that-

(a) the service provider is licensed to collect and transport the categories of waste for which he or she is contracted;

(b) until such time as the licensed service provider collects such waste from the premises on which it was generated, the waste is stored in an approved container and no nuisance with regard to dust, odours or health, is caused by the handling of the waste in the course of its generation, storage or collection; and

(c) the service rendered is only in respect of the categories of waste authorised in the licence.

Repealed

Part 2 – Municipal service providers

49. Outsourcing of services

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

50. Consumer charter

If a service provider as contemplated in section 49 is appointed by the municipality, to render a service to a large geographical area or part of its population, the service provider may be required to compile and adopt a consumer charter in consultation with the community.

Chapter 8
General

51. Ownership

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

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

52. Access to premises

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

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

Chapter 9
Compliance and enforcement

53. Compliance with this by-law and other laws

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

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

54. Authorisation of an authorised official

(1) The municipality or a service provider as contemplated in section 49 of this by-law, may authorise any person in its employ give effect to the provisions of this by-law.

(2) The waste management officer of the municipality is an authorised official.

55. Functions and powers of an authorised official

An authorised official may execute work, conduct an inspection and monitor and enforce compliance with this by-law and, as applicable, national and provincial legislation relating to waste management.

56. Service of notices and documents

(1) A notice or document issued by the municipality in terms of this by-law must be deemed to be duly authorised if an authorised official signed it.

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

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

(b) when it has been left at his or her residence or place of business or employment to a person apparently not less than sixteen years of age and residing or employed there;

(c) if he or she has nominated an address for legal purposes, having been delivered to such an address;

(d) if he or she has not nominated an address for legal purposes, having delivered it to the address given by him or her in his or her application for the provision of waste services, for the reception of an account for the provision of waste services;

(e) when it has been sent by pre-paid registered or certified post addressed to his or her last known address for which an acknowledgement of the posting thereof will be obtained from the postal service;

(f) in the case of a legal person, by delivering it at the registered office or business premises of such legal person; or

(g) if service cannot be effected in terms of subsections (a) to (f), by affixing it to a conspicuous place on the premises concerned.

57. Compliance notices

(1) An authorised official may issue a written notice to any person contravening the provisions of this by-law.

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

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

(b) provide the owner, occupier, or other party a reasonable opportunity to make representations within a specified period;

(c) specify the steps that the owner, occupier or other person must take to rectify or remedy the failure;

(d) specify the period within which the owner, occupier or other person must take these steps to rectify the failure; and

(e) indicate that the municipality may-

(i) if the notice is not complied with, undertake or allow the work that is necessary to rectify the failure to be undertaken and recover from the owner, occupier or other person the actual cost of such work; and

(ii) take any other action it deems necessary to ensure compliance.

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

(a) undertaking the actions or work necessary and recovering the cost of such actions or work from the owner, occupier or other person; or

(b) instituting legal proceedings against the owner, occupier, or other person in terms of the Criminal Procedures Act, 1977 (Act 51 of 1977);

(4) In the event of an emergency the municipality may without prior notice undertake the work contemplated in subsection (3) and recover such costs from the owner, occupier or other person.

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

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

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

(a) it is carried out;

(b) it is cancelled by the authorised official who issued it or, in that person's absence, by a person with similar authority;

(c) the purpose for which it was issued, has lapsed.

58. Power of entry and inspection

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

(2) When accessing the premises, the authorised official must, if requested, identify himself or herself by means of an appointment certificate..

59. Using force to enter

Force may not be used to affect entry to execute work or conduct an inspection on any premises unless an emergency arises.

60. Liabilities and compensation

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

61. False statement or information

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

62. Appeal

A person whose rights are affected by a decision of the municipality in terms of delegated authority may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

Repealed

63. Offences

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

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

(b) obstruct, interfere or hinder an authorised official who is exercising a power or carrying out a duty under this by-law;

(c) fail or refuse to provide an authorised official with a document or information that the person is required to provide under this by-law;

(d) give false or misleading information to an authorised official;

(e) prevent the owner of any premises, or a person working for that owner, from entering the premises in order to comply with a requirement of this by-law;

(f) pretend to be an authorised official;

(g) alter an authorisation to an authorised official or written authorisation, compliance notice or compliance certificate issued in terms of this by-law;

(h) enter any premises without a written notification in circumstances requiring such notification;

(i) act contrary to a written notice or document issued in terms of this Chapter;

(j) disclose any information relating to the financial or business affairs of any person which was acquired in the performance of any function or exercise of any power in terms of this by-law, except-

(i) to a person who requires that information in order to perform a function or exercise a power in terms of this by-law;

(ii) if the disclosure is ordered by a court of law; or

(iii) if the disclosure is in compliance of the provisions of any law.

(k) contravene or fail to comply with any of the provisions of this by-law;

(l) fail to comply with any notice issued in terms of this by-law;

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

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

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

64. Penalties

(1) Any person who contravenes any of the provisions of section 63 shall be guilty of an offence and liable on conviction to:

(a) a fine or imprisonment or to such imprisonment without the option of a fine or to both such fine and such imprisonment and,

(b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,

(c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as a result of such contravention or failure.

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

65. Application of this By-Law

This by-law applies to all persons or entities, including organs of State, situated within the area of jurisdiction of the Drakenstein Local municipality.

66. Exemptions

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

(2) The municipality may:

(a) grant an exemption in writing in which the conditions and terms, if any, and the period for which such exemption is granted is stipulated;

(b) alter or cancel any existing exemption or condition in such exemption after due notice to the person concerned; or

(c) refuse to grant an exemption in which case reasons for the refusal must be furnished to the person concerned.

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

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

67. Repeal of by-laws

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

68. Short title and commencement

This by-law is called the Integrated Waste Management by-law, and commences on the date of publication in the *Provincial Gazette*.