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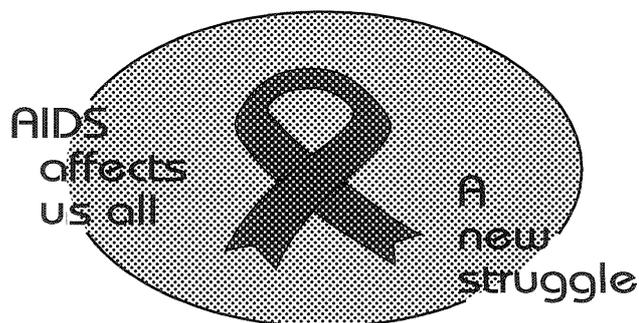
**BUITENGEWONE
PROVINSIALE KOERANT**

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No. 7385

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DEPARTMENT OF HEALTH

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LOCAL AUTHORITY NOTICES

LOCAL AUTHORITY NOTICE 266

GREATER TAUNG LOCAL MUNICIPALITY



BY-LAW RELATING TO THE PREVENTION OF NUISANCES

GREATER TAUNG LOCAL MUNICIPALITY

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 the By-Law Relating to the Prevention of Nuisances which shall come into operation on the date of publication thereof.

BY-LAW RELATING TO THE PREVENTION OF NUISANCES

Purpose of By-Law

The purpose of this By-law is to promote the achievement of a safe, peaceful and healthy environment for the benefit of residents within the area of jurisdiction of the municipality and to provide for procedures, methods and practices to regulate nuisances.

Definitions

1, In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and, unless the context otherwise indicates: -

council means the council of Greater Taung Local Municipality or any political structure, political office bearer, councillor, or any staff member acting under council's delegated or sub-delegated authority;

erf means any land, whether vacant, occupied or with buildings thereon;

municipal area means the municipal area of Greater Taung Local Municipality

municipality means the Greater Taung Local Municipality established in terms of Section 12 of the Municipal Structures Act, 117 of 1998;

“nuisance” means something that is annoying and is a continuing problem

objectionable material means garden litter, rubbish, waste material, rubble, scrap metal, article or thing, disused motor cars, machinery or other vehicles, as well as the disused parts thereof, refuse from any building operations, or any refuse capable of being dumped on any land or premises, including new or used building materials not necessarily required in connection with bona fide building operations actually in progress on any land, and includes any solid, liquid or gas which is or may become offensive or dangerous or injurious to health or which materially interferes with the ordinary comfort or convenience of the public;

public nuisance means any act, omission or condition which is offensive and/or injurious and/or dangerous to health and/or which materially interferes with the ordinary comfort, convenience, peace or quiet of the public and/or which adversely effects the safety of the public;

public place means any square, building, park, recreation ground or open space which –

- (a) is vested in the Municipality;
- (b) the public has the right to use, or
- (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General's office and has been provided for or reserved for the use of the public or the owners of erven in such township;

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.

Behaviour and conduct

2. Notwithstanding the provisions of any other By-law, no person may –

- (1) dump, accumulate or place or cause or permit to be dumped, accumulated or placed objectionable material in or on any erf, street, drain, water furrow, sewer, thoroughfare, public square or commonage except at such place or places as the council may from time to time set aside or approve for such purposes, provided however that the council may permit public garages, workshops and other trades, subject to such conditions as may be imposed in each case, to keep, store, repair, dismantle or re-assemble any motor vehicle or other vehicle or apparatus on premises approved by the council;
- (2) do work on any erf or use any building or land for purposes calculated, in the opinion of the council, to depreciate or to disfigure such erf or to interfere with the convenience or comfort of the neighbours thereof or to become a source of danger to any person;
- (3) carry on any trade, business or profession on any erf in the municipal area which may in the opinion of the council be a source or become a source of discomfort or annoyance to the neighbourhood;
- (4) deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse or any objectionable material or thing which is offensive or likely to cause annoyance, danger or injury to persons in or upon any erf, street or public place;
- (5) allow any erf to be overgrown with bush, weeds or grass or other vegetation except cultivated trees, shrubs and grass to such extent that, in the opinion of the council or any duly authorised employee of the council it may be used as a shelter by vagrants, wild animals or vermin or may threaten the public health or the safety of any member of the community or may promote the spread of fires;
- (6) allow any erf to be dirty, neglected or infested with rodents, snakes, mosquitoes, flies, ticks, bugs or other insects harmful to health, or allow any offensive odours or gasses to emanate from such erf;
- (7) allow the fencing of any erf to fall into a state of disrepair or to become unsightly or dilapidated;

- (8) allow any building or structure or any portion thereof on any erf to fall into a dilapidated, neglected or unsightly state, or fail to maintain the roof-water disposal system, pipes, sewers, drains, water fittings, waste water fittings, water closet fittings and all other appurtenances forming part of or attached to any building or structure in good and sound repair, or fail to maintain the walls of any building or structure free from dampness;
- (9) use or cause or permit to be used any stoep and/or veranda of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying, keeping, selling or offering for sale any goods, articles or merchandise;
- (10) use or cause or permit any shop or business premises or vacant land adjoining such shop or business premises or any portion thereof which is open or visible to the public for the purpose of storing, stacking, dumping, disposing, or keeping any waste material, refuse, cartons, crates, containers or other articles of a like nature;
- (11) enclose or cause or permit the enclosing of any stoep or verandah of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the council may approve;
- (12) keep on his premises any animal or bird which creates a disturbance or a nuisance to the neighbours by making frequent and excessive noise;
- (13) deposit any night soil on any premises, except in a proper sanitary convenience approved by the council and in accordance with any by-law of the council;
- (14) keep upon his premises any sanitary convenience of such nature that it is a nuisance or is offensive or injurious or dangerous to health;
- (15) defoul, misuse or damage any public convenience or any convenience provided in any public building or place of public entertainment;
- (16) carry or convey, or cause or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become offensive or dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any nuisance;
- (17) bury or dispose of any dead body in any unauthorised place;

(18) permit the carcass of any animal, being his property or of which he is in charge, and which has died on his premises or elsewhere in the municipal area, to remain unburied;

(19) cause or permit any stream, pool, ditch, drain, gutter, watercourse, sink, bath, cistern, water closet, privy or urinal on any land or premises owned or occupied by him or of which he is in charge to be or become so foul or in such a state or to be so situated or constructed as to be offensive or dangerous or injurious to health;

(20) cause or permit any foul or polluted water or any foul liquid or objectionable material to run or flow from any premises owned or occupied by him, whether occupied for trade, business, manufacturing, dwelling or any other purpose, into any street or on any land;

(21) commit or cause or permit to be committed, any act which may pollute any water which inhabitants of the municipality have the right to use or which is provided or deserved for the use of such inhabitants;

(22) bathe or wash himself or any animal or article or clothing or any other article or thing in any public stream, pool or water trough or at any public hydrant or fountain or at any place which has not been set aside by the council for any purpose;

(23) disturb the public peace in any street or public place by making unseemly noises or by shouting, insistent hooting, wrangling or quarrelling,

(24) advertise wares or services in any street or public place by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells in such manner as to constitute a public nuisance in the neighbourhood;

(25) in or upon any property or premises disturb the public peace in the neighbourhood of such premises by making therein or thereon any unseemly noises, or by shouting, wrangling, quarrelling and singing or by playing therein or thereon a musical instrument or use or permit to be used any musical instruments, radios, television sets or the like or any loudspeaker or other device for the reproduction or amplification of sound, in such manner or at such a time or in such 7circumstances that the sound thereof is audible beyond the boundaries of such property or premises and materially interferes

with the ordinary comfort, convenience, peace or quiet of the occupiers of surrounding properties;

(26) in any street or public place use any abusive or threatening language or commit any act which may or is calculated to cause a breach of the peace;

(27) solicit alms in any street or public place or endeavour by the exposure of wounds, sores, injuries or deformities or the production of begging letters to obtain alms, or

(28) cleanse or wash any vehicle or part in any street or public place.

Enforcement

3.(1) The council may, whenever it regards it necessary to do so, enter any premises at any reasonable time to ensure compliance with this by-law.

(2) Where any material, article or thing of whatsoever nature has been accumulated, dumped, stored or deposited on any erf, or where there is an overgrowth of bush, weeds, grass or vegetation on any erf in contravention of section 2 the council may serve a notice on –

(a) the person directly or indirectly responsible for such accumulation, dumping, storing or depositing;

(b) the owner of such material, article or thing, whether or not he is responsible for such accumulation, dumping, storage or depositing;

(c) the owner of the erf on which such accumulation, dumping, storage or depositing takes place, whether or not he is responsible therefor, or

(d) the owner of the erf on which there is an overgrowth of bush, weeds, grass or vegetation.

(3) Should any person or owner fail to comply with the requirements of a notice in terms of subsection 3.2 within the period stipulated by the council, the council may itself dispose of or destroy or remove such material, article or thing, or clear the overgrowth from any erf within 24 hours at the cost of any one or more of the persons or owners mentioned in subsection [1] [a], [b], [c] and [d].

Sanitary facilities at construction sites

4. Every person engaged in building operations, road construction or construction work of any nature shall, when required to do so by the council, provide adequate sanitary accommodation for himself and his employees to the satisfaction of and in accordance with any requirements specified by the council.

Unlawful occupation

5.(1) No person shall, without the permission of the council, occupy or permit to be occupied for human habitation any caravan, tent or other similar shelter of any description except on an authorised camping or caravan site controlled by the council or any other camping or caravan site which conforms with the provisions of the by-laws relating to such caravan parks or camping sites.

(2) The council may serve notice on any person who occupies a caravan, tent or shelter in contravention of 5.1 to vacate such caravan, tent or shelter within 3 days after the service of such notice upon him, failing which, such person shall be guilty of an offence.

Penalties

6. Any person who contravenes or fails to comply with any provision of this By-law or any notice served in terms thereof shall be guilty of an offence and be liable upon conviction to –

- (a) a fine or imprisonment for a period not exceeding six months 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 of 10 days 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.

Repeal of By-Law

7. Any by-law relating to the prevention of nuisances adopted by the Greater Taung Local Municipality or any municipality now comprising an administrative unit of the Greater Taung Local municipality is repealed from the date of promulgation of these by-laws.

Short title

8. This By-law is called the prevention of nuisance By-law.

LOCAL AUTHORITY NOTICE 267

GREATER TAUNG LOCAL MUNICIPALITY



BY-LAW RELATING TO TAXI RANKS AND TAXI RANKING

THE GREATER TAUNG LOCAL MUNICIPALITY

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 read with Section 162 of the Constitution of the Republic of South Africa Act, 1996 the By-Law Relating to Taxi Ranks and Taxi Ranking which must come into operation on the date of publication thereof.

BY-LAW RELATING TO TAXI RANKS AND TAXI RANKING

1 Definitions

In this by-law, unless the context indicates otherwise-

"Stand License" means a permit contemplated in Section 88[5] of the Act and issued by the Council in terms of this by-law;

"Chief Traffic Officer" means the Head of the Traffic Department, any person authorised by the Council to act on his behalf, any person acting in his stead and any person designated by the Council to enforce this by-law;

"Council" means the Council of the Greater Taung Local Municipality established in terms of the Section 12 of the Local Government Municipal Structures Act, 1998, [Act No 117 of 1998], as amended and includes any Committee of the Council or any official employed by the Council, acting by virtue of any power vested in the Council in connection with this by-law and delegated to such Committee or official.

"fees" means the amount determined by the Council resolution from time to time;

"rank inspector" means a person employed by the Council to regulate passenger and vehicle related procedures at taxi facilities in accordance with this by-law;

"official" means an employee of the Council authorised to enforce the provisions of this by-law, and also a member of the South African Police Services and the Provincial Traffic Inspectorate;

"owner" in relation to a vehicle, means –

- (a) the person who has the right to use and derive
- (b) pleasure from a vehicle in terms of the common law or a
- (c) contractual agreement with the title holder of such a vehicle: or
- (b) any person referred to in paragraph [a] for any period during which such person has failed to return that vehicle to the title holder in accordance with the contractual agreement referred to in paragraph [a], and who is registered as such in accordance with Section 14 of the Road Traffic Act, 1989, as amended and "owned" or any like word has a corresponding meaning;

"Local Transport Liaison Committee" [LTLC] means the Local Transport Liaison Committee or any similar body representing the interests of the taxi industry in the area of jurisdiction of the municipality.

"public road" means any road, street or thoroughfare 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;
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare; and
- (e) a taxi facility.

"stand" means a site or place reserved for a taxi facility.

"taxi" means a motor vehicle which is designed or adapted solely or principally for the conveyance of not more than 25 persons, including the driver, and which is operated for hire or reward, but does not include –

- (a) an ambulance;
- (b) a hearse;

- (c) any motor vehicle owned by any local authority or state, including the Provincial Administration; or
- (d) any other class of motor vehicle which the Council may prescribe as not being a "taxi";

"taxi facility" means a rank, stop, terminal, parking place and any other facility specifically identified by the Council for use by a taxi;

"the Act" means the Road Traffic Act, 1989 [Act No 29 of 1989] as amended;

"municipal area" means the area of jurisdiction of the Greater Taung Local Municipality

Restriction on loading and off-loading of passengers

2.(1) A driver of a taxi ~~shall~~~~must~~~~may~~ only allow a passenger to ascend or alight from a taxi at a taxi facility established or designated by the Council in accordance with this by-law.

(2) No person ~~shall~~~~must~~~~may~~ attempt to ascend or alight from a taxi except at a taxi facility designated by the Council in terms of this by-law.

(3) No private person ~~shall~~~~must~~~~may~~ allow a taxi operator to utilise his or her property as a taxi facility, unless such property has been so designated by the Council in consultation with the LTLC.

Applications for stand licence

3.(1) Only a taxi in possession of a licence issued by the Council in terms of this by-law must be permitted to use taxi facilities established by the Council.

(2) The application for the granting of a stand licence ~~shall~~~~mus~~ be accompanied by –
(a) the prescribed fees contemplated in Schedule A;

(b) a valid Certificate of Fitness in terms of the Road Traffic Act, 1989, in respect of the vehicle concerned;

(c) proof of registration and licensing of the vehicle in terms of Section 14 of the Road Traffic Act, 1989; and

(d) a valid public road carrier permit issued under the Road Transportation Act, 1977,

in respect of the road transportation proposed to be undertaken in terms of the motor vehicle licence referred to in sub-paragraph [b] above, or a certified copy of such certificate.

(3) Every application for a stand licence in terms of this by-law ~~shall~~ ~~must~~ ~~must~~ be referred to the LTLC for a recommendation and such recommendation must be considered by Council before taking a decision on the application.

(4)(a) The Council must from time to time, by resolution, determine the fees for the issue of a stand licence and may determine different fees for different facilities at taxi ranks in consultation with LTLC.

(b) The Council must prescribe the form of –

(i) the application for a stand licence; and

(ii) a stand licence

(5) No stand licence shall be issued unless the provisions of this section have been complied with.

Period of validity of stand licence

4.(1) A stand licence issued in terms of this by-law is valid for a period of 12 months from 1 January to 31 December of each year.

(2) Not later than 21 days before expiry of a stand licence, the owner of the stand and the licence must apply to the Council for a further stand licence, in the form referred to in Section 3 and the provisions of this section must apply *mutatis mutandis* in respect of such application.

(3) If a stand licence is obtained for the first time after 1 July of each year, the applicant must pay half of the prescribed fee contemplated in Schedule A, per stand.

(4) Payment of half of the prescribed fee contemplated in subsection (3) is the pro rata for the remainder of the year.

Temporary substitution of vehicle

5.(1) Subject to subsection [2], a stand licence issued in terms of this by-law does not authorise the holder thereof to park any other motor vehicle at a taxi rank other than the vehicle registered in such licence.

(2) The holder of a stand licence issued in terms of this by-law may substitute the motor vehicle in respect of which such stand licence has been issued with another motor vehicle for a period not exceeding 21 days in cases where the registered motor vehicle has become defective or, due to an accident, has been temporarily withdrawn from service: Provided that the holder of the stand licence concerned must apply for the prior approval of such substitution to the duly authorised official who must issue a substitute stand licence in respect of the substituted vehicle.

(3) The provision of section 3 of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) apply with the necessary changes, to the process contemplated in subsection (2).

(4) The holder of a stand licence referred to in subsection 2 must carry the substituted licence in the substitute vehicle at all times when a taxi facility is used by such vehicle.

Transfer of licence

6. A stand licence granted in terms of this by-law is not transferable from the licensee to another person.

Maintenance and display of stand licence

7.(1) Every stand licence issued by the Council must contain the particulars of the taxi facilities the licensee is entitled to use as prescribed by the Council.

(2) Immediately on obtaining a stand licence in terms of subsection [1], the licensee must affix the stand licence issued to him in a conspicuous place on the left hand inside of the windscreen of the vehicle in an upright position with the inscribed side facing the front so that the particulars on such stand licence are clearly legible and visible at all times.

(3) No person may, during the period of validity of a stand licence issued in respect of any taxi, use or cause or allow such taxi to be used at a taxi facility if the stand licence affixed to such taxi has been defaced, concealed or removed.

Duplicate stand licence

8. If the holder of a stand licence satisfies the Council by Affidavit that the stand licence has been lost or destroyed, or produces a stand licence that has been so damaged that the letters and figures thereon are no longer clearly legible, the Council must, upon application by such holder on a form prescribed by the Council and upon payment of the amount prescribed by the Council issue a duplicate stand licence clearly endorsed "DUPLICATE" thereon to him.

Payment of stand licence fees

9.(1) All users of taxi facilities must pay the fees determined by resolution of the Council.

(2) The payment of any fees determined by the Council in terms of this by-law does not absolve any person from criminal liability arising from his failure to take out a licence nor must the fact that a person has been convicted of an offence under this by-law absolve him from the liability to pay any fees in terms of this by-law.

Dishonoured cheques

10. Where an applicant for a stand licence pays the prescribed fee by cheque and the cheque is dishonoured on presentation, such stand licence is void as from the date on which it was issued, and the applicant must, on demand by a taxi inspector forthwith deliver such licence to such taxi inspector.

Stand licence issued in name of partnership

11.(1) The owner/owners of a vehicle must apply for a stand licence for every vehicle that uses a taxi facility.

(2) When a stand licence is issued to a partnership and a member of the partnership, for any reason, ceases to be a partner during the year for which the stand licence is granted to the partnership, the remaining partner or partners may carry on the business or undertaking for the unexpired period of the stand licence.

(3) If a change in the composition of a partnership is occasioned by the admission of a new partner, the current stand licence granted to such partnership lapses and the partnership must apply for a new stand licence.

Designation of taxi facility

12.(1) The Council may, in consultation with the LTLC, by notice in the official languages recognised by the Council designate any facility or area on a public road as a taxi facility for the purposes of this by-law.

(2) The Council must keep a list and description of all designated taxi facilities prominently displayed at the offices of the Chief Traffic Officer at all times.

Development of Taxi Facility

13. No taxi facility may be developed by the Council for the exclusive use of any taxi association and/or individual taxi operator.

Taxi stops

14. No driver of a taxi shall ~~may~~ park at any taxi stop, but may stop long enough for passengers to ascend or alight from the taxi.

Taxi Facility regulation

15.(1) A taxi inspector or duly authorised official must be responsible for the control of a traffic facility and may issue such instructions and give such orders necessary to ensure that such facility is operated in an orderly and safe manner and that the provisions of this by-law are complied with.

(2) No person and/or Association is allowed to regulate a taxi facility on behalf of the Council.

(3) Only a taxi inspector or duly authorised official may evict or allow the eviction of another person and/or Association from any taxi facility on account of a contravention of this by-law.

(4) All taxi operators must take turns in loading passengers to and from their respective areas in accordance with their valid authority.

(5) Any person who contravenes or fails to comply with the provisions of this section is guilty of an offence.

Servicing of taxi at taxi facility

16. No person may service a taxi at a taxi facility.

Furnishing of information on demand

17. Any duly authorised official may call upon the driver of any taxi to stop and may call upon him to provide or state his full name and address and the name and

address of the owner of the taxi and any such driver who, when called upon to do so by such official –

- (a) fails or refuses to stop;
- (b) fails or refuses to give his full name and address;
- (c) fails or refuses to give the correct name and address of the owner of the vehicle in his charge; or
- (d) gives a false name and address is guilty of an offence.

Right of entry upon premises

18.(1) Any duly authorised official of the Council may, for any purpose connected with the carrying out of this by-law, at all reasonable times and without previous notice, enter upon any premises, and make such inspection and enquiry as he/she may deem necessary for the purposes of enforcing this by-law.

(2) Such official must, upon request by the owner or occupier of the premises, produce proof of his identity and authority to make the inspection and enquiry in terms of this section.

Revocation of stand licence

19.(1) Where the owner or person in charge of any taxi or the taxi driver has been convicted for a failure to comply with the provisions of this by-law or any other law relating to the operation of such a taxi, and notwithstanding the imposition of any other penalty by a court of law, the Council may, subject to the relevant provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000) revoke the stand licence in respect of any such vehicle.

(2) No vehicle may enter any taxi facility if the stand licence has been revoked.

Procedure for revocation

20.(1) A stand licence may not be revoked, unless –

(a) at least 14 days written notice of the intention to do so has been given by registered post or hand delivery to the holder of the stand licence concerned at his last known address.

(b) the notice referred to in subsection [a] must contain –

(i) the reasons for, and disclosure of the nature of the intended action;

(ii) an address for the submission of written representations and the date, venue and address of a hearing referred to in subsection 2: Provided that such date may not be less than 14 days from the date of such notice.

(2) At a hearing before an official or body established and authorised jointly by the Council and the LTLC, the holder of the stand licence concerned must be given an opportunity, either personally, or through his duly authorised representative, to adduce evidence in regard to the allegations and submit representations in respect of the proposed action.

(3) In the event of the LTLC failing within a reasonable time or refusing to nominate an official or body to consider the hearing referred to in subsection 2, the Council itself must nominate such official or body.

(4) The official or body conducting the aforesaid hearing must make a recommendation to the Council which must consider same before deciding to revoke or not to revoke the relevant stand licence.

(5) If the holder of the stand licence concerned fails to submit written representations or fails to appear at the hearing contemplated in subsection 2 the Council may, after consideration of the facts at its disposal, revoke the stand licence.

Change of address

21. The holder of a stand licence must give notice to the Council of any change of address within seven days of such change of address by registered post, telefax or hand delivery.

Amendment of particulars of stand licence

22. Where the particulars contained on a stand licence are incorrect by virtue of a change in such particulars or for any other reason, the holder of such stand licence must submit such stand licence to the Council for the amendment thereof within 10 days of such fact coming to his notice.

Offences and penalties

23. Any person who contravenes or fails to comply with or who causes, permits or suffers any other person to contravene or to fail to comply with any provision, of this by-law or any notice given in terms of this by-law, commits an offence and is liable on conviction to a fine not exceeding R500-00 or imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment and, in the case of a continuing offence, to an additional fine or an additional period of imprisonment of 10 days 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.

Repeal of By-Laws

25. Any by-law relating to taxi ranks and taxi ranking adopted by the Greater Taung Local municipality or any council of a municipality now comprising an administrative unit of the Council are repealed from the date of promulgation of this by-law.

LOCAL AUTHORITY NOTICE 268

GREATER TAUNG LOCAL MUNICIPALITY



**CEMETERIES, FUNERAL PARLOURS PREMISES
AND MORTUARY BY-LAW**

GREATER TAUNG LOCAL MUNICIPALITY**CEMETERIES, FUNERAL PARLOURS AND MORTUARIES
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1. Definitions

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

“**adult**” means a deceased person over the age of 12 years and where the word is used to define human remains, a deceased person whose coffin will

fit into the grave opening prescribed for adults in section 18; where a coffin cannot be accommodated in an excavation of 1,40m in length and 400mm in width.

“**after hour fee**” means a fee over and above the prescribed norm of tariff for interment or burials which because of religious belief are undertaken after such hours or in the case of burial that the community close the grave.

“**anatomy subject**” means a body delivered to an authorised school of anatomy in term of the Anatomy Act, 1959 [Act 20 of 1959].

“**aesthetic section**” means a cemetery or section of a cemetery which has been set aside by the Council wherein a headstone may only be erected and strips of garden will be provided by the Council;

“**approved**” means approved by the Council;

“**approved container**”

“**ashes**” means the cremated remains of a human remain

“**berm**” means a concrete base laid at the head of a grave and on which a memorial is erected;

bio-degradable material.

“**burial**” means burial in earth, a sepulchre or tomb;

“**burial order**” means an order issued in terms of the Births and Deaths Registration Act, 1992 (Act 51 of 1992);

“**cadaver**” means a dead human body.

“**caretaker**” means the official whom the Council appoints from time to time in a supervisory capacity with regard to a cemetery;

- “**officer-in-charge**” means the registrar of a crematorium appointed in terms of Regulation 21 of the Regulations Relating to Crematoria and Cremations, made in terms of Ordinance No. 18 of 1965, and includes a person authorized by the Council to be in control of any cemetery;
- “**cemetery**” means a land or part of a land within the municipal area set aside by the Council as a cemetery;
- “**certificate of competence**” means a document contemplated in section 6;
- “**child**” means a person who is not an adult, and where the word is used to define a human remain, means a deceased person whose coffin will fit into the grave opening prescribed for children in section 18, and includes the human remain of a stillborn child;
- “**code of practice**” means the obligations and responsibilities of the cremation authority to the dignified handling and disposal of the deceased.
- “**columbarium**” means a the place set aside in the basement of a crematorium or chapel containing rows of niches for the purpose of placing receptacles containing the ashes of cremated corpses therein;
- “**contractor**” means the person who has paid or caused any of the charges prescribed in the tariff to be paid or who has obtained any of the rights set out in these By-laws or who has obtained the right to have a memorial work erected or constructed or who has obtained any other rights or interests referred to or mentioned in these by-laws;
- “**corpse**” means the remains of a deceased person and includes a still-born child;
- “**Council**” means –
- (a) the Greater Taung Local Municipal Council; or
 - (b) 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); or
 - (c) a service provider fulfilling a responsibility under these by-laws, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act, or any other law, as the case may be;
- “**cremation**” means the process whereby a corpse is disposed of by fire;
- “**crematorium**” means a crematorium as defined in section 1 of the Ordinance and includes the buildings in which a ceremony is conducted and the cremation carried out;
- “**crematorium section**” means a section of a cemetery or crematorium set aside by the Council for the burial of ashes;

- “**cremated remains**” means all recoverable ashes after the cremation process;
- “**crematory**” means the room in the crematorium which houses the cremation refractory.
- “**cremator**” means the refractory in which the process of cremation of the coffined body is carried out.
- “**declaration of Indigence**” means an affidavit of declared investigated and authorised by a Social Worker of the Department of Social Services or the Municipality in terms of its Indigent Policy
- “**environmental authorization**” means an environmental authorization as defined in the National Environmental Management Act 1998, (Act 107 of 1988)
- “**environmental health practitioner**” means a person registered as such in terms of section 34 of the Health Professions Act, 1974 (Act 56 of 1974) and who performs functions as listed in the Schedule of the Scope of Professions of Environmental Health, as amended.
- “**exhumation**” means the removal of human remains from its grave;
- “**existing funeral undertaker’s premises**” means existing funeral undertaker’s premises which are legally used as such on the date of commencement of this By-laws;
- “**funeral undertaker’s premises**” means premises that are used or will be used for the preparation of human remains;
- “**garden of remembrance**” means a section of a cemetery or crematorium set aside for the erection of memorial work;
- “**grave**” means a piece of land excavated for the burial of a corpse within a cemetery or heritage site and includes the, headstone, number or marker of and a structure on or associated therewith;
- “**heroes acre**” means an area of land set aside for the burial of a hero;
- “**holder**” means the person in whose name a certificate of competence has been issued;
- “**indigent person**” includes a pauper; means a destitute person who has died in indigent circumstances, or if no relative or other person, welfare organisation or NGO can be found to bear the burial or cremation costs of such deceased person.
- “**indigent relief**” means an Indigent person who has received assistance for burial or cremation from another person, Welfare organisation or NGO.
- “**inhumation**” means the burial of human remains.
- “**interment**” means to inter / commit the human remains into its final place, see burial.
- “**landscape section**” means a cemetery or section therein set aside by the

Council where memorial work is restricted to a plaque or memorial slab [500mm] provided that such plaque or memorial slab is placed horizontal at 30mm below grass level.

“**lawn section**” means a cemetery or section therein set aside by the Council where memorial work is restricted to a headstone only.

“**Local authority**” means the area under the control and jurisdiction of the Municipal council.

“**mausoleum**” means an above ground burial vault

“**memorial section**” means a section of a cemetery set aside for the erection of memorials;

“**memorial wall**” means a wall in a cemetery or crematorium section provided for the placement of inscribed tablets commemorating deceased persons.

“**memorial work**” means any headstone, monument, plaque, or other work, or object, erected or intended to be erected in any cemetery or crematorium to commemorate a deceased person, and includes a kerb demarcating a grave, and a slab covering a grave;

“**name**” shall be the name of the deceased and include any identifying description of a deceased human being who possessed no name or whose name is unknown at the time of death.

“**new funeral undertaker’s premises**” means funeral undertaker’s premises that are put into use as such after the date of commencement of this By-law;

“**niche**” means a compartment in a columbarium or garden of remembrance for the placing of ashes;

“**non-resident**” means a person at the time of death who was not a resident under the control of Municipal Council.

“**normal operational hours**” means Monday to Friday 09h00 to 15h00 excluding Saturdays, Sundays and Public holidays.

“**office hours**” means Monday to Friday 07h30 to 16h30 excluding Saturdays, Sundays and Public holidays.

“**Officer in charge**” means a person authorised by Council to be in control of any cemetery and in the case of a crematorium.

“**ordinance**” means the Crematorium Ordinance, 1965 (Ordinance No. 18 of 1965);

“**open section**” means a section in a cemetery set aside by the council where memorial work may be erected at a later stage subjected to the relevant private rights fees have been paid

“**panoramic section**” means a section in a cemetery set aside by the Council where memorial work is restricted to a plaque or memorial slab;

“**plot**” means any area laid out in a cemetery for not less than two and not

more than three graves adjoining each other in any direction, in respect of which the exclusive right to inter has been acquired in terms of these by-laws.

"preparation" means any action aimed at the preparation of human remains for a

funeral or for cremation, export or other disposal and includes the embalming of such human remains for the said purposes, and "prepare" and any word derived there from has a corresponding meaning; preparation shall not include the embalming of or incisions into a corpse.

"prescribed" means prescribed by the Council;

"prescribed fee" means a fee determined by the Council by resolution in terms of section 10G(7)(a)(ii) of the Local Government Transition Act, 1993 (Act No. 209 of 1993), or any other applicable legislation;

"private rights".....

"promission" means the process whereby a corpse is disposed of by dry freezing

"refugee" means any person given legal refugee status.

"registrar of deaths" means any person appointed as registrar or assistant registrar of deaths in terms of the Births, Marriages and Deaths Registration Act, 1963 [Act 81 of 1963]

"regulation" means a person, who at the time of death, ordinarily resided in the municipal area or who has been given refugee status and is residing in municipal area or who for at least six months immediately prior to such date was the owner of fixed property in the memorial work.

"South African Heritage Resources Agency" means the South African Heritage Resources Agency, established in terms of section 11 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999)

"stone mason" means a person carrying on business as a stone mason;

"strewn" means the dignified scattering of ash in a garden of remembrance.

"tomb" means an above ground burial vault;

"undertaker" means a person registered to undertake the dignified preparation of a human body for burial or cremation and is in possession of the Municipal council's and Legislatures certificate of competence.

"pauper" means a person who has died as an unknown person or if no relative or other person, welfare organisation or NGO can be found to bear the burial or cremation costs of such deceased person.

"victim of conflict" means a person defined in section 1 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

1.2 If any provision in these by-laws vests or imposes any power, function or duty of the Council in or on an employee of the Council and such power, function or duty has in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), or any other law been assigned to a service provider, the reference to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider — authorised by it.

2. Principles and objectives

The Municipal council, acting under the powers granted to it by national and provincial legislation, including the Regulations relating to Funeral Undertakers' Premises, made by the Minister of Health and Welfare in terms of sections 33 and 39 of the Health Act, 1977 (as amended), and published as Government Notice No. 237 of 8 February 1985, and aware of the dignity of its residents and the need to preserve that dignity, and aware that human remains are to be granted respect, and that all its residents have the right to inter human remains in a cemetery or to cremate a human remains in a crematorium, hereby adopts this By-law to control funeral undertaker's premises, to make provision for the allocation of land for the purposes of the burial of human remains and to develop and maintain existing cemeteries.

3. Application of By-law

This By-law apply to all funeral undertakers' premises, cemeteries and crematoria within the Greater Taung Local Municipal area, but do not apply to –

- (a) mortuaries and hospitals under the control of the State or a provincial administration;
- (b) any natural person who is not in the service of a funeral undertaker and who does not, either directly or indirectly, undertake or arrange funerals but only prepares human remains, if such preparation does not take place on fixed –premises that are used by such person specifically for such purpose.

4. Legislative framework

This By-law fall within the legislative framework of the:

- (a) Inquests Act, 1959 (Act No. 58 of 1959);
- (b) Health Act, 1977 (Act No. 63 of 1977) as amended;
- (c) Human Tissue Act, 1983 (Act No. 65 of 1983);
- (d) Births and Deaths Registration Act, 1992 (Act No. 51 of 1992);
- (e) Constitution of the Republic of South Africa, 1996 (Act No.108 of 1996);

- (f) Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000); and
- (g) Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000)

CHAPTER 1: FUNERAL UNDERTAKERS' PREMISES

5. Interpretation

In this Chapter Act means the Health Act, 1977 (Act 63 of 1977) as amended, and unless the context otherwise indicates, any expression to which a meaning has been assigned in the Act has such meaning.

6. Human remains to be prepared only at funeral undertaker's premises in respect of which certificate of competence has been issued.

6.1 Subject to the provisions of this By-law, no person may prepare or store any human remains except on funeral undertaker's premises in respect of which a certificate of competence has been issued and is in effect.

6.2 ~~The Council~~ ~~he Council~~ may, if there is a nuisance present on funeral undertaker's premises or mortuary situated in its area of jurisdiction, issue a written order to the enterprise in question to stop all activities connected with the handling, preparation and storage of human remains until such time as the nuisance referred to in the order has been eliminated.

7. Exemptions

7.1 The Council may in writing exempt any person from compliance with all or any of these regulations where non-compliance does not or will not create a nuisance.

7.2 Such exemption is subject to such conditions and valid for such period as the Council may lay down and stipulate in the certificate of exemption.

8. Application for the issue or transfer of a certificate of competence

8.1 (a) A person wishing to apply for a certificate of competence in respect of new funeral undertaker's premises must or mortuary, not less than 21 days before submitting his or her application to the Council, cause a notice to be published in two of the official languages in newspapers that appears mainly

in those languages, where each of the said newspapers circulates in the area in which such premises are situated, or must, where separate newspapers in an official language do not so circulate, cause such notice to be published in two official languages in a newspaper that so circulates.

(b) Such notice must contain information to the effect that an application for the issue of a certificate of competence in terms of this By-law is to be submitted to the Council as mentioned ———in the notice and that any person who will be affected by the use of such funeral undertaker's premises or mortuary and wishes to object to such use may lodge his objection, together with substantiated representations, with the Council in writing within 21 days of the date of publication of such notice.

8.2 (a) An application for the issue or transfer of a certificate of competence must be made in writing by the applicant or his or her authorised representative to the Council on such form as the Council may require.

(b) An application for the issue of a certificate of competence must be accompanied by –

- (i) a description of the premises and the location thereof;
- (ii) a complete ground plan of the proposed construction or of existing buildings on a scale of 1:100;
- (iii) a block plan of the premises on which north is shown indicating which adjacent premises are already occupied by the applicant or other persons and for what purpose such premises are being utilised or are to be utilised; and
- (iv) particulars of any person other than the holder or any of his employees who prepares or will prepare human remains on the premises.

8.3 The Council, when considering issuing or transferring a certificate of competence, may request from the applicant or any other person any such further information as it may deem necessary to enable it to properly consider the application concerned.

8.4 Council shall not consider any application for the issue or transfer of a certificate of competence unless a complete inspection of the premises concerned has been carried out by the environmental health practitioner or a health inspector and his or her report on such inspection, including his or her recommendation on such issue or transfer, is in the possession of the Council.

9. Issue or transfer of certificate of competence

9.1 Where the Council, after consideration of an application for the issue or transfer of a certificate of competence, the report concerned by the environmental health practitioner or health inspector, including his or her recommendation, and any objections to the use of funeral undertaker's premises or mortuary, is satisfied that the premises concerned –

- (a) comply with all requirements laid down in this By-law;
- (b) are in all respect suitable for the preparation of human remains; and
- (c) will not be offensive to any occupant of premises in the immediate vicinity of such premises, the Council shall, such as it may determine in respect of the funeral undertaker's premises concerned, issue a certificate of competence in the name of the holder in such form as it may determine or shall by endorsement transfer an existing certificate of competence to a new holder, as the case may be.

10. Validity and transfer of certificate of competence

A certificate of competence, excluding a provisional certificate of competence, is on endorsement by the Council, be transferable from one holder to a new holder and such certificate is renewable every second year.

11. Issue of provisional certificate of competence

11.1 Notwithstanding the fact that the Council is not satisfied as contemplated in section 9 with regard to funeral undertaker's premises or mortuary in respect of which a certificate of competence has been applied for, Council–

- (a) shall, in the case of existing funeral undertaker's premises; and
- (b) may, in all other cases, subject to such conditions as the Council may determine in general or in each specific case, issue a provisional certificate of competence in respect of such premises for a maximum period of 6 months to enable the applicant to alter such premises to comply with the provisions of these regulations, however, the council must satisfy itself that the use of such funeral undertaker's premises

does not and will not create a health nuisance or endanger human health.

12. Duties of holder of certificate of competence

12.1 The holder must immediately inform the Council in writing if there are any changes in the particulars supplied to the Council in the application for the certificate of competence concerned.

12.2 failure of the holder or the person in charge/authorized person to comply with this By-law shall constitute an offence.

13. Suspension or revocation of certificate of competence or provisional certificate of competence

13.1 If the Council is of the opinion, on the strength of an inspection report and recommendation by the environmental health practitioner that there are reasonable grounds to suspect that such premises are being used

(a) in a way that is hazardous to health, or that conditions entailing a hazard to health have been or are being created on such premises;

(b) in contravention of the provisions of the Act or the conditions to which such certificate of competence or provisional certificate of competence is issued, the Council may, subject to the provisions of subsection (2), serve a written notice on the holder or the person in charge of such premises in which the holder is instructed to remove such health nuisance or health hazard from the premises, to cease the use of the premises in contradiction of the certificate of competence or a provisional certificate of competence and or to also furnish reasons, at a place and a time specified in such notice, why such certificate should not be dealt with in terms of subsection (12).

13.2 Notwithstanding the provisions of subsection (1), the Council may, pending on inquiry contemplated in subsection (1), suspend a certificate of competence or provisional —————certificate of competence immediately on the strength of a report by the Director General, authorized person or environmental health practitioner in the —service of the State or of the Council, stating that the hazard referred to in sub resection (1) (a) is a health nuisance and recommending such suspension.

13.3 A notice referred to in subsection (1) shall set out such particulars as are reasonably adequate to inform the holder concerned why the withdrawal of the certificate is —————contemplated and shall be served by the Council not less than 21 days prior to the date specified in such note for the holding of an inquiry.

13.4 The holder may appear personally at such inquiry or be represented by any of his employees specially authorised by him or her for such purpose in writing, or by his or her legal representative, or may —submit written statements or arguments in the form of an affidavit to the Council for consideration.

13.5 (a) If the holder appears at the inquiry, or if the holder does not appear at the inquiry but the Council is satisfied that the notice referred to in subsection (1) has been properly served on the holder, the Council shall inquire into the matter mentioned in such notice.

(b) For the purpose of such inquiry the Council may call and interrogate or re-interrogate any person present at such inquiry and must hear such evidence as may be —————adduced by or on behalf of the holder and may cross examine any person giving evidence for or on behalf of the holder.

13.6 The holder, his or her authorised employee or his or her legal representative may interrogate any witness called for or on behalf of the holder at such inquiry and may cross-examine any other witness testifying.

13.7 (a) The Council may instruct any witness at such inquiry to testify on oath or on affirmation.

(b) The Council may administer an oath to or accept an affirmation from any person appearing before it to testify or to submit a book, document or object.

13.8 In regard to the giving of evidence or the submission of a book, document or object at such inquiry, the right to privilege shall apply which is applicable to a witness testifying in a —————criminal case in a magistrate's court or summonsed to submit a book, document or object.

13.9 The Council may, in its discretion, postpone or adjourn such —————inquiry for such period or periods as it may deem fit, however, where a suspension has been instituted in terms of subsection (2), such postponement or adjournment may not be for more than 14 days.

3.10 The Council shall-

(a) cause a record of the proceedings at such inquiry to be kept in such manner as it may determine.

(b) ensure that such record is accessible to and copies thereof may be made by the holder or his or her representative on such conditions regarding time and _____place as the Council may determine.

(c) keep the record of such inquiry for a period of two years in a place where it is protected against fire and theft, and a clearly legible copy of such record must be submitted to the Director-General forthwith after the inquiry.

13.11 Upon conclusion of such inquiry, the Council must deliberate in camera.

13.12 If it appears to the Council that –

(a) the funeral undertaker's premises or mortuary concerned are being used in such a way as to create a health nuisance or that conditions constituting a health nuisance have been or are being created on the funeral undertaker's premises or mortuary concerned; or

(b) the premises concerned are being used in contravention of the provisions of the Act or any conditions to which the certificate of competence or provisional certificate of competence concerned is subject, the Council may, in order to put an end to the matter about which a complaint has been received, make such order as it may deem fit, namely –

(i) in relation to conditions referred to in subsection (13.1)(a) –

(aa) where in its opinion the health hazard in question is areal hazard, an order withdrawing the certificate of competence or provisional _____certificate of competence concerned; and,

(bb) in other cases, an order requiring the future use of such premises to be so regulated so as to correct without delay the matter complained about; or

(ii) in relation to an irregularity referred to in subsection (1)(b)

(aa) an order suspending the certificate of competence or provisional certificate of competence concerned for such period as the Council may determine, and informing the holder that, if the conditions complained about as mentioned in such order are not corrected to the Council's satisfaction within such period of suspension, the certificate concerned will be revoked without further notice; or

(bb) an order requiring the future use of such premises to be so regulated so as to correct without delay the matter complained about.

13.13 (a) An order made in terms of subsection (12) shall be issued in writing, signed by the Municipal Manager and then served on the holder, and the person on whom such order has been served must deal with such order and with the certificate of competence or provisional certificate of competence concerned, in cases where such certificate has been revoked, in the manner laid down in such order.

(b) After making such order, the Council shall forthwith send a copy thereof to the Director-General.

13.14 No decision of the Council in terms of this By-law –

- (a) regarding the revocation of a certificate of competence or provisional certificate of competence; or
- (b) which is at variance with a recommendation of the environmental health practitioner of health as contemplated in subsection (1), shall be effective without the written approval of the Director-General and no order in terms of subsection (12) shall be made without the prior approval of the Director-General.

13.15 The suspension or revocation of a certificate of competence or provisional certificate of competence in terms of this By-law has the effect that, from the date of coming into operation of the order of suspension or revocation –

- (a) no preparation of any human remains shall be performed on the premises concerned;
- (b) no human remains may be received for preparation or storage on the premises concerned; and
- (c) no human remains may be preserved on the premises concerned and
- (d) no human remains shall be examined on the premises, and
- (e) all human remains must forthwith be removed to a mortuary under the control of the State, a provincial administration or the Council or any other funeral undertaker's premises designated by the Council or approved by the Council and costs of such removal, storage and preservation shall be recovered from the certificate holder, however, where refrigeration facilities for human remains on the premises concerned are suitable for such preservation, this paragraph does not apply and the said order shall not be so construed as to restrict any act relating to the profession, excluding the preparation and receiving of a human remain.

13.16 Where a condition that gave rise to the revocation of a certificate as contemplated in this section was corrected after such revocation, the Council shall, on written application made by or on behalf of the holder, repeal such revocation by endorsement on the certificate concerned.

14. Requirements relating to funeral undertaker's premises

14.1 All facilities used in connection with the receiving, storage and preparation of human remains on funeral undertakers premises or mortuary shall be located on the funeral undertaker's ~~said~~ premises.

14.2 Provision for at least the following must be made on funeral undertaker's and mortuary premises—

- (a) A preparation room for the preparation of human remains;
- (b) change-rooms, separate for each sex, for the use of the employees employed at such premises;

- (c) refrigeration facilities for the refrigeration of human remains;
- (d) facilities for the washing and cleansing of utensils and equipment inside the building;
- (e) facilities for the cleansing of vehicles on such —premises; and
- (f) facilities for the loading and unloading of human remains.
- (g) facilities for back-up source electricity, in the case of power failure.

14.3 No room on funeral undertaker's premises or mortuary may be used for any purpose other than the purpose for which it is intended and no act other than an act related to the said purpose may occur in such room.

14.4 Such preparation room shall –

- (a) be so designed as to –
 - (i) be separated from all other rooms on the premises and as not to communicate directly with any office or salesroom, however, where a preparation room on existing funeral undertaker's premises so communicates, the entrance thereto must be so concealed that the interior thereof is completely out of the sight of any person in such office or salesroom;
 - (ii) enable obnoxious odours and vapours to be adequately eliminated; and
 - (iii) be sufficiently ventilated and lighted;
- (b) have a floor –
 - (i) covering an area of not less than 16m² for the first table of the kind referred to in paragraph (e) and 8m² for each additional such table;
 - (ii) constructed of concrete or similar waterproof material with a smooth non slippery surface that is easy to clean, and

- sloped at an angle to _____ensure that any run-off will drain into an approved disposal system; and
- (iii) which, if it is replaced or laid after the date of commencement of this By-law, must be provided with half-round filling where it meets the walls;
- (c) have walls the inner surfaces of which have a smooth finish and are covered with a light-colored washable paint or other approved, suitable, smooth, _____waterproof, light-colored and washable material;
- (d) be provided with a ceiling not less than 2,4 m above the floor level, which ceiling shall be dust-proof and painted with a light-colored washable paint;
- (e) contain not less than one table of stainless steel or glazed earthenware or other approved material, equipped with a raised rim on the outside, a tap with _____cold running water to which a flexible pipe can be connected and a drainage opening connected to an approved disposal system;
- (f) contain not less than one wash-basin for each such table, made of stainless steel or other approved material, with a working surface of the same material, _____taps with hot and cold running water and a drainage opening permanently connected to a municipal disposal system, and provided with disposable towels, a nailbrush and soap;
- (g) have not less than one tap with running water to which a flexible pipe, long enough to reach all corners of such room, can be connected for cleaning the _____interior surfaces;
- (h) have door openings that are not less than 0,82m in width and 2,00m in height so that human remains can be taken into and out of such room without any _____difficulty.

14.5 Each such change-room shall contain at least the following:

- (a) One hand-basin with hot and cold potable running water for every six employees or part of this number; and

- (b) disposable towels, soap, nailbrushes and disinfectant; and
- (c) not less than one latrine for every 15 males employees or part thereof and not less than one latrine for every 15 female employees or part of this number employed at the funeral undertaker's premises concerned: Provided that; where a separate urinal for men forms part of such facilities, one latrine plus one separate urinal shall be permissible for every 30 men or part thereof.

14.6 Refrigeration facilities such as refrigerators or cold chambers shall be installed in or within easy reach of such preparation room for the keeping of human remains, and –

- (a) where refrigerators are provided, they shall be –
 - (i) made of a material that does not absorb moisture;
 - (ii) provided with removable trays; and
 - (iii) so designed as to drain properly and be easy to clean;
- (b) the surface temperature of any human remains shall be no higher than 5⁰C within three hours of its being received on the premises and no higher than 15⁰C during preparation; and
- (c) where cold chambers are provided, they shall comply with subsection (4)(a)(ii), (b)(ii), (c), (d) and (h) and must be provided with shelves manufactured from a material that does not absorb moisture and that is easy to clean.
- (d) The use of out-sourced refrigeration facilities is prohibited.

14.7 Cleansing and loading and unloading facilities must consist of a paved area, screened from public view, with a drainage system into a gully connected to a municipal disposal system.

14.8 The loading and unloading of human remains and the cleansing of vehicles may not take place anywhere except in the area contemplated in subsection (7).

14.9 The funeral undertaker's premises must be rodent-proof.

14.10 Adequate and effective facilities for back up source of electricity shall be provided in case of power failure

15. Hygiene

15.1 All solid waste refuse on the premises of a funeral undertaker or mortuary shall be kept in corrosion-resistant and rodent proof containers with tight-fitting lids and must be dealt with in accordance with the Waste Management By-law 2014.

15.2 Every holder of a certificate of competence or a provisional certificate of competence relating to a funeral undertaker's premises or mortuary shall –

(a) provide clean protective over-clothes consisting of surgical gloves, gumboots, plastic aprons so designed that the front hangs over the top of the gumboots, face masks— and linen overcoats to all employees and all other persons involved in post mortems, and each such employee or other person must, at all times when so involved, wear such clothing;

(b) keep such premises free of insects, offensive odours, gases and fumes

(c) cause all working areas or surfaces at such premises where human remains are prepared to be cleaned immediately after the preparation of any human remains;

(d) cause all equipment used for the preparation of human remains to be washed and disinfected immediately after use;

(e) cause all protective over-clothes that have been used to be washed, cleansed and disinfected on the premises; and

(f) if human remains has been transported without a moisture-proof covering, cause the loading space of the vehicle concerned to be washed and disinfected after such corpse has been removed; and

(g) The number of human remains kept within the premises shall not exceed the number of removable trays available to accommodate such human remains in the

—————refrigerators or cold chambers.

15.3 All waste generated in the preparation room shall be deemed to be health risk waste and collection, storage, handling and disposal of such waste be done in accordance to relevant
—————health care risk waste standards.

CHAPTER 2: GENERAL PROVISIONS RELATING TO CEMETERIES

16. Appointment of caretaker

16.1 The Council must appoint a caretaker for each facility used to inter human remains in a cemetery to control and administer the facility cemetery.

16.2 The caretaker must take into account the customs of the deceased person and the people responsible for the interment and must accommodate these within —the———— framework of this By-law.

17. Hours of admission for public

17.1 Every cemetery is open to the public between 08h00 and 17h00, however the Council may close to the public a cemetery or part thereof for
—————such periods if it is in the interest of the public.

17.2 No person, excluding workers or persons with permission, may be in or remain in a cemetery or part thereof before or after the hours mentioned in sub—section (1) or during a period when it is closed to the public.

17.3 A person who contravenes subsection (2) commits an offence.

18. Children

18.1 No child under 12 years of age may enter a cemetery unless he or she is under the care of a responsible person.

18.2 A person who allows a child to enter a cemetery or in contravention of subsection (1), commits an offence.

19. Keeping to path

Except for purposes permitted by this By-law, a person may only use a path provided in the cemetery, and failure to do so constitutes an offence.

20. Prohibited conduct within places of interment and cemetery

20.1 No person may –

- (a) commit or cause a nuisance within a cemetery or
- (b) ride an animal or cycle within a cemetery
- (c) bring or allow an animal to wander inside a Cemetery
- (d) plant, cut, pick or remove a tree, plant, shrub or flower without the permission of the caretaker
- (e) hold or take part in a demonstration in a cemetery
- (f) interrupt during the performance of his or her duties an official, workman or labourer employed by the Council in a cemetery or
- (g) obstruct, resist or oppose the caretaker in the course of his or her duty or refuse to comply with an order or request which the caretaker is entitled
 |
 |—————under this By-law to make
- (h) use a cemetery for an immoral purpose;
- (i) mark, draw, scribble, erect an advertisement or object on a wall, building, fence, gate, memorial work or other erection within a —cemetery
- (j) use water for any form of gardening without the permission of the caretaker
- (k) plant trees, flowers or shrubs on or between graves
- (l) leave any rubbish, soil, stone, debris or litter within
 the cemetery

- (m) in any way damage or deface any part of a cemetery or anything therein contained
- (n) enter or leave a cemetery, except by an entrance provided for the purpose
- (o) solicit any business, order or exhibit, or distribute or leave a tract, business card or advertisement within a cemetery
- (p) treat a grave or memorial work with disrespect, such as climbing or sitting on a grave or memorial work
- (q) enter an office, building or fenced place in a cemetery, except in connection with lawful business
- (r) with the exception of a blind person, bring an animal into a cemetery or crematorium; and
- (s) expose human remains or a part thereof in a cemetery or

20.2 A person who contravenes a provision of subsection (1) commits an offence.

21. Right of interest in ground

21.1 No person shall acquire any right to or interest in any ground or grave in a cemetery, other than such rights or interests as may be obtainable under this
 _____By-law

21.2 The Council may on payment of the applicable charges prescribed in the tariff sell to a person the use of a grave in a section of a cemetery.

21.3 (a) The Council may set aside different areas in a cemetery for exclusive use by different religious or cultural groups, taking into consideration the customs or religious conventions of such groups.

(b) The Council may, if compelled to do so by environmental considerations, such as shortage of land for burial, subject to the provisions of any other _____law

regarding the rights of a person, request that human remains be cremated instead of interred.

CHAPTER 3: GENERAL PROVISIONS RELATING TO INTERMENT

22. Consent required for disposal of human remains

22.1 No person may dispose of human remains in any other manner than those approved by Council by interring it in a cemetery and a person who wishes to dispose of a human remains must obtain the written consent of the caretaker before he or she disposes of the human remains.

22.2 A person who wishes to obtain the consent as contemplated in subsection (1) must submit to the caretaker an application in writing

_____ together with –

- (a) the fee prescribed;
- (b) a death certificate;
- (c) a burial order issued in terms of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992), and the caretaker may not approve the application unless all of the above requirements are met.

22.3 An application must be submitted to the caretaker, in respect of –

(a) a burial, not later than 15:00 on the day before the intended interment or, where the grave exceeds the standard size, not later than 15:00 two days before the intended interment; and

22.4 Should any alteration be made in the day or hour previously fixed for an interment, or an interment be cancelled, notice of the alteration must be given to _____ the caretaker at the cemetery at least six hours before the time fixed for the interment, and no refund will be made on monies paid in respect of the opening of an existing grave.

22.5 The application contemplated in subsection (2) must be signed by the nearest surviving relative of the person whose human remains will be

buried in the grave or other person as the nearest surviving relative may authorise to sign the application on his or her behalf, however, if the caretaker is satisfied that the signature of the nearest surviving relative cannot be obtained timeously, or for another valid reason, he or she may in his or her discretion grant an application signed by any other interested person.

22.6 In the instance where a person –

- (a) who at the time of his or her death was suffering from a communicable disease, this must be indicted; or
- (b) in whom was inserted radioactive material or a pacemaker, it must be indicated if the said material or pacemaker was removed from the human remains.

22.7 A person who contravenes subsection (5) or subsection (6) commits an offence.

23. Interment times

23.1 An interment may take place between 08:00 and 17:00 daily.

23.2 Notwithstanding the provisions of subsection (1), the caretaker to whom an application is made may, if he or she is satisfied that the case is one of emergency, permit interment outside the times contemplated in subsection (1) in which case an additional fee as prescribed in Schedule of tariffs is payable.

23.3 A person who fails to comply with the provisions of subsection (1), commits an offence.

24. Register for interments

24.1 The caretaker must keep a record of all interments, and the record must contain –:

- (a) The particulars of the person who requested the interment;
- (b) the particulars of the human remains to be interred, such as the name, address, and identification number;

(c) the date of the interment; and

(d) in the instance of an interment, the number of the grave in which the human remains is interred.

25. Indigent and destitute persons

25.1—A person may apply to the Council for the burial of human remains of an indigent person and must provide proof that the deceased was granted the status as indigent person in terms of the Council's Indigent Policy.

26. Human remains to be sealed in body bag

26.1 Unless contrary to the tradition, customs or religious beliefs of the deceased person or the applicant, human remains intended for interment must be sealed in a body bag inside a coffin.

26.2 A person who fails to ensure that the provisions of subsection (1) is met, commits an offence.

27. Number of human remains in one coffin

27.1 Subject to the provisions of subsection (2), only one human remains may be contained in a coffin.

27.2 More than one corpse may be contained in one coffin on the consent of the caretaker first having been obtained and the prescribed fee having been paid, in the case of –

(a) a mother and child who died during childbirth; or

(c) family members who –

(i) died together; or

(ii) died a short while after each other, and the burial of the first dying member has not yet taken place, and each human remains must be —contained in a separate body bag.

CHAPTER 4: INTERMENT

28. Permit for interment

Subject to the provisions of this By-law, no interment shall take place in any grave not allotted by the officer-in-charge

29. Dimensions of grave openings

29.1 The standard dimensions of graves are as follows:

(a) Adult:

(i) Single grave: Length: 2200 mm; Width: 900 mm.

(ii) Double grave: Length: 2200 mm; Width: 2700 mm.

(b) Child: Single grave: Length: 1500 mm; Width: 700 mm.

29.2 Any person requiring an aperture for an interment in an adult's grave of a size larger than the standard dimensions must, when submitting an application in terms of section 16, specify the measurements of the coffin, and pay the charges prescribed in the tariff in the Tariff Schedule adopted by the municipality for enlarging the aperture.

30. Depth of grave

30.1 An adult's grave is 1900 mm in depth and that of a child 1500 mm in depth.

30.2 The lid of the coffin, or where one coffin has been buried on top of another coffin, the lid of the top coffin may not be less than 1200 mm from the surface.

31. Reserving of grave

31.1 A person desiring to reserve the use of a grave must apply therefore to the caretaker and must pay the prescribed fee.

31.2 A restriction is placed on the reserving of graves, and reservations shall only be accepted for adult graves in the monumental section as stated in subsection (3), upon payment of the charges prescribed in the tariff.

31.3 In the event of an interment of a husband or wife in the monumental section, only one additional adjoining grave may be reserved for the survivor.

31.4 In the event of an interment of a husband or wife in the aesthetic section, an additional adjoining grave may not be reserved for the survivor, however, subject to the provisions of section (29), the interment of the survivor may be permitted in the same grave.

31.5 Where another person, other than the applicant, has mistakenly used a grave

31.6 A certificate of reservation in respect of any grave may be transferred, assigned or alienated with written consent of the local authority on the prescribed form.

32. Child's coffin too large

Should a child's coffin be too large for the dimensions of a child's grave, it must be placed in an adult grave and the usual fee for an adult's interment must be paid by the person submitting an application—in terms of section (28), and in the instance where a child is interred in a section intended for adults the tariff applicable to adults applies.

33. Construction material of coffin

33.1 A coffin interred in a grave must be constructed of wood or bio-degradable material.

33.2 A person who interrs a coffin in contravention of subsection (1) commits an offence.

34. Number of bodies in one grave

34.1 Only where consent has been granted in terms of section (22) (**Consent required for interment**), and subject to section 24, 31 and 49, may more than one corpse be interred in a single grave.

35. Coffin to be covered with earth

Every coffin must, upon being placed in a grave, be covered without delay with at least 300 mm of earth, and failure to do so constitutes an offence.

36. Religious ceremony

The members of a religious denomination may conduct a religious ceremony in connection with an interment or memorial service.

37. Hearse and vehicle at cemetery

37.1 No hearse or other vehicle may enter a cemetery without the permission of the caretaker.

37.2 No hearse or other vehicle may use any other route to enter a cemetery than the routes set aside for that purpose.

37.3 A person who contravenes subsections (1) or (2) commits an offence.

38. Instruction of caretaker

A person taking part in a funeral procession or ceremony in a cemetery must follow instructions by the caretaker, and failure to do so constitutes an offence.

39. Music inside cemetery

39.1 Only sacred singing is allowed in a cemetery, except in the case of police or military funerals.

39.2 A person who contravenes subsection (1) commits an offence.

40. Interment attended by more than fifty people

In any instance where it is probable that more than 50 people will be present at an interment, the person submitting an application in terms of section 16, must notify the fact to the caretaker the day before the funeral, and failure to do so constitutes an offence.

41. Number on grave

41.1 No person may inter a corpse in a grave on which a peg marked with the number of the grave has not been fixed.

41.2 A person who contravenes subsection (1) commits an offence.

CHAPTER 5: EXHUMATION OF HUMAN REMAINS AND RE-OPENING OF GRAVES**42. Disturbance of mortal remains**

42.1 Subject to the provisions of an exhumation order given in terms of section 3(4) of the Inquests Act, 1959 (Act 58 of 1959) or any other provision of any Act relating to the exhumation of human remains, no human remains or mortal remains or ground surrounding it in a cemetery may be disturbed, no grave may be opened, and no human remains may be removed from a grave without the written consent of the Council and the medical officer of health.

42.2 The charges for exhumation prescribed in the tariff must be submitted to the caretaker at least two days before the date fixed for the exhumation or removal of human remains.

42.3 A person who contravenes subsections (1) or (2) commits an offence.

43. Time of exhumation

43.1 No person may exhume or cause human remains to be exhumed during such time as the cemetery is open to the public.

43.2 A person who contravenes subsection (1) commits an offence.

44. Re-opening of grave

44.1 No person may re-open a grave for the purpose of interring second human remains in the same grave unless –

- (a) the grave was initially made deeper for this purpose;
- (b) if not made deeper, then only after 10 years have passed since the interment of the first human remains; and
- (c) for purposes of burial of a receptacle containing ashes, the depth does not exceed 300 mm.

44.2 A person who contravenes a provision of subsection (1) commits an offence.

CHAPTER 6: CARE OF GRAVE

45. Shrubs and flowers

The Council may at any time prune, cut down, dig up or remove any shrub, plant, flower, foliage, wreath or adornment if it becomes unsightly, is damaged or wilted.

46. Care of graves

The Council may at its discretion undertake to keep any grave in order for any period.

CHAPTER 7: ERECTION AND MAINTENANCE OF MEMORIAL WORK

47. Consent of Council

47.1 No person may bring into a cemetery, erect, alter, paint, clean, renovate, decorate, remove or otherwise interfere with any memorial work or cut any inscription thereon in a cemetery without the written consent of the Council and of the contractor of a grave.

47.2 When erecting a memorial work, the following must be submitted

- (a) a sketch which gives an indication of the measurements and the position;
- (b) specification of the material of which the memorial work is to be constructed; and
- (c) the wording of the epitaph.

47.3 The sketch must be submitted 30 days before the erection commences, and must be accompanied by the charges prescribed in the tariff.

47.4 A person who contravenes subsection (1) commits an offence.

48. Position of memorial work

48.1 No person may erect a memorial work on a grave before the position in which such memorial work is to be placed has been indicated by the Council.

48.2 Should the condition of subsection (1) not be complied with the Council has the right to alter the position of the memorial work and to recover the costs of the alteration from the contractor.

49. Repairs to memorial work

49.1 Should the contractor of a grave allow a memorial work to fall into such a state of disrepair that it may cause danger or deface the cemetery, the Council may cause a Notice of Compliance to be served on the contractor.

50. Supervision of work

A person engaged upon any work in a cemetery must effect the work under the supervision of the Council, and failure to do so constitutes an offence.

51. Damaging of memorial work

The Council under no circumstances accepts responsibility for any damage which may at any time occur to a memorial work, and which is not due to the negligence of the Council's employees.

52. Moving of memorial work

The Council may, after due notice, at any time change or alter the position of a memorial work in a cemetery and recover the cost thereof from the owner of the memorial work, however in an instance where a memorial work has originally been placed in a certain position with the express consent of the Council or its employee, any alteration of the position in terms of the provisions of this section is executed at the expense of the Council.

53. Bringing material into cemetery

(53.1) No person may bring into the cemetery any material for the purpose of constructing therewith any memorial work on any grave unless and until –

- (a) all charges due in respect such grave have been duly paid;
- and

(b) the Council's written approval of the proposed work has been given to the applicant, which approval is only valid for six months, and in the event of the memorial work not being erected within the prescribed time a new application must be submitted.

(53.2) the grave number must be neatly indicated in figures, and failure to do so constitutes an offence.

(53.3) A person who contravenes subsection (1) commits an offence

54. Cleaning of memorial work by Council

A memorial work placed, built, altered, decorated, painted or otherwise dealt with in a cemetery in such manner that any provisions of this By-law are contravened thereby, may be removed by the Council at the cost of the contractor after due notice, without payment of any compensation.

55. Requirements for erection of memorial work

55.1 A person erecting a memorial work must comply with the following—

- (a) He or she must be in possession of a plan approved by the Council;
- (b) all work must be effected according to the provisions laid down by the Council;
- (c) proceedings must be of such a nature that no damage be caused to any structure or offence given;
- (d) where a memorial has a pedestal on ground level or on the berm, the pedestal may not be more than 900 mm in length, 250 mm in width and 250 mm in height for a single grave, and not more than 2700 mm in length, 250 mm in width, and 250 mm in height for a double grave;
- (d) with the contractor's permission, the name of the maker can be displayed on a memorial work, but no address or any other particulars may be added thereto, and the space utilized for it may not be larger than 40 x 100 mm.

55.2 A person who does not comply with a provision in subsection (1) commits an offence.

56. Conveying of memorial work

56.1 No person may convey any stone, brick or memorial work or a portion thereof within a cemetery upon a vehicle or truck which may cause damage to the paths or grounds or structures of the cemetery.

56.2 A person who contravenes subsection (1) commits an offence.

57. Vehicle and tools

Every person engaged with work upon a grave or plot must ensure that the vehicles, tools or appliances be of such a kind as not to contravene —
———this By-law and by no means block any road or roads, and failure to do so constitutes an offence.

58. Complying with Council's directions

A person carrying on work within a cemetery must in all respects comply with the directions of the Council, and failure to do so constitutes an offence.

59. Times for bringing in material and doing work

60.1 No person may bring memorial work or material into or do any work within a cemetery except between Mondays to Fridays: From 08h00 to 16h30.

60.2 No person may engage in work which may be disturbing when a funeral takes place and for the duration of the funeral.

60.3 A person who contravenes subsections (1) or (2) commits an offence.

60. Inclement Weather

64.1 No person may fix or place any memorial work during inclement weather or while the soil is in an unsuitable condition.

64.2 A person who contravenes subsection (1) commits an offence.

61. Production of written permission

A person charged with work or on his or her way to or from work within the cemetery, must upon demand from the Council or its authorized official, produce the —written consent issued to him or her and failure to do so constitutes an offence.

CHAPTER 8: MISCELLANEOUS**62. Authentication and service of order, notice or other document**

62.1 An order, notice or other document requiring authentication by the Council must be sufficiently signed by the Municipal Manager or by a duly authorised officer of the Council, such authority being conferred by resolution of the Council or by a by-law or regulation, and when issued by the Council in terms of this By-law shall be deemed to be duly issued if it is signed by an officer authorised by the Council.

62.2 Any notice or other document that is served on a person in terms of this By-law, is regarded as having been served –

- (a) when it has been delivered to that person personally;
- (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
- (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgment of the posting thereof from the postal service is obtained;
- (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
- (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates; or

- (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate.

62.3 Service of a copy shall be deemed to be service of the original.

62.4 Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

63. Complaint

A person wishing to lodge a complaint must lodge the complaint in writing to the Municipal Manager.

64. Appeal

64.1 A person whose rights are affected by a decision of an official, may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.

64.2 The municipal manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

64.3 The municipal manager must commence with an appeal within six weeks and decide the appeal within a reasonable time.

65. Charges

65.1 The charges set forth in the tariff (as contained in the Municipality's Tariff Schedule) in respect of the various items contained in this By-law, must be paid to the Council.

65.2 if a person fails to pay a tariff as prescribed in this By-law, Council may act in accordance with its Credit Control and Debt Collection By-law.

66. Penalties

66.1 A person who ~~has committed~~ commits an offence in terms of this By-law is, on conviction, liable to a fine not exceeding R2000,00 or in

default of payment, to imprisonment for a period not exceeding 6 months, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment.

67. Limitation of liability

67.1 The Council is not liable for any damage or loss caused by –

(a) the exercise of any power or the performance of any duty in –good faith under this By-law; or

(b) the failure to exercise any power, or perform any function or duty in good faith under this By-law.

68. Short title and commencement

This By-law ~~may be cited as~~ is the Cemeteries and Funeral Undertakers' Premises By-law and commences on a date as determined by the Council and published in the Provincial Gazette.

LOCAL AUTHORITY NOTICE 269

WASTE MANAGEMENT BY-LAW

14 FEBRUARY 2014

**GREATER TAUNG
LOCAL MUNICIPALITY**



WASTE MANAGEMENT BY-LAW

WASTE MANAGEMENT BY-LAW

14 FEBRUARY 2014



THE MUNICIPAL MANAGER HEREBY PUBLISHES in terms of section 13 of the Local Government Municipal Systems Act, Act 32 of 2000 (hereinafter the “Systems Act”), read with section 162 of the Constitution of the Republic of South Africa Act, Act 108 of 1996 (hereinafter the “Constitution”), the Greater Taung Local Municipality Waste Management By-Law which shall come into operation on the date of publication hereof in the Provincial Gazette.

PREAMBLE

- (1) **WHEREAS** the Greater Taung Local Municipality (hereinafter “the Municipality”) has the legislative duty and obligation to administer waste management as stipulated and listed in Part B of Schedule 5 of the Constitution.
- (2) **AND WHEREAS** the Municipality has an obligation to regulate and control waste management so as to ensure a safe, healthy and sustainable environment and to ensure that the rights of individuals are protected.
- (3) **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 management service provider.

WASTE MANAGEMENT BY-LAW

14 FEBRUARY 2014

- (4) **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.
- (5) **NOW THEREFORE** this by-law is adopted to regulate the avoidance, minimisation, generation, collection, cleaning and disposal of waste and for matters related thereto, in terms of section 156(2) of the Constitution and section 9(3)(a) – (d) of the National Environmental Management: Waste Act, Act 59 of 2008 (hereinafter “NEMWA”).

WASTE MANAGEMENT BY-LAW

14 FEBRUARY 2014

THE GREATER TAUNG LOCAL MUNICIPALITY: WASTE MANAGEMENT BY-LAW

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CHAPTER 1

GENERAL PROVISIONS

1. DEFINITIONS

In this by-law, except where the context otherwise indicates or it is expressly stipulated otherwise, the following words and expressions shall have the respective meanings assigned to them hereunder and words or expressions to which a meaning has been assigned in terms of the provisions of the Systems Act, the Local Government: Municipal Finance Management Act, Act 56 of 2003 (hereinafter “the MFMA”), NEMWA, the Credit Control & Debt Collection Policy and By-Law of the Municipality, the Tariff Policy and By-Law of the Municipality as well as the Indigent Policy and By-Law of the Municipality, will have the corresponding meaning assigned thereto. All headings are included for convenience only and shall not be used in the interpretation of any of the provisions of this by-law.

NO.	WORD/EXPRESSION	DEFINITION
“A”		
1.1	“approved”	Means bins, bin liners, containers, receptacles and wrappers, approved by the Municipality for the collection and storage of waste.
1.2	“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 waste management service, an employee of such service provider, authorised by it as an Authorised Official in terms of this by-law and acting within the scope of the powers, functions and duties assigned to that service provider by the Municipality in terms of section 81(2) of the Systems Act or another applicable law.

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“B”		
1.3	“basic municipal waste management service”	Means a municipal waste management service necessary to ensure an acceptable and reasonable quality of life, which service, if not provided, would endanger public health or safety or the environment.
1.4	“bin”	Means an approved receptacle for the storage of less than 1,5 cubic meters of waste which may be supplied by the Municipality or service provider to premises in terms of this by-law.
1.5	“building waste”	Means waste, excluding hazardous 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.
1.6	“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 municipal waste management service provided by the Municipality or service provider.
1.7	“business waste”	Means waste that emanates from premises that are used wholly or mainly for commercial, retail, wholesale, entertainment or government administration purposes.
“C”		
1.8	“commercial licensee”	Means any person who has obtained a licence in terms of Chapter 9 of this by-law to provide commercial waste management services within the jurisdiction of the Municipality.
1.9	“commercial waste management services”	Means any waste management service, excluding municipal waste management services, 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.
1.10	“Constitution”	Means the Constitution of the Republic of South Africa, 108 of 1996.

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1.11	“consumer”	<p>Means any person or entity consuming or receiving waste management services, and may include a customer or a tenant of a customer irrespective of whether such a person has concluded a service agreement with the Municipality, and may also include a person who illegally and unlawfully connected to the municipal waste management services infrastructure or who illegally and unlawfully gained access to or usage of the municipal waste management services and include:</p> <p>(a) any person who occupies property or premises to whom and in respect of such property or premises, the Municipality:</p> <p>(i) has agreed to provide municipal waste management services;</p> <p>(ii) is actually providing municipal waste management services;</p> <p>(iii) has entered into an agreement with the Municipality for the provision of municipal waste management services to or on any property or premises (customer);</p> <p>(b) the owner of any property or premises to which the Municipality is providing municipal waste management services;</p> <p>(c) where municipal waste management services are provided through a single connection to a number of accommodation units or consumers or occupiers mean the person to whom the Municipality agreed to provide such municipal waste management services;</p> <p>(d) any end user who receives municipal waste management services from the Municipality; and</p> <p>(e) any person who generates or produces waste.</p>
1.12	“container”	<p>Means an approved receptacle having a capacity greater than 1,5 cubic meters for the temporary storage of waste in</p>

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		terms of this by-law.
1.13	“Council”	Means the Municipal Council of the Municipality as referred to and constituted in terms of the provisions of section 157 of the Constitution.
1.14	“customer”	Means the owner of the premises or in exceptional circumstances a tenant, and includes a person or entity liable to the Municipality for the payment of tariffs, levies, fees and municipal consumption charges in terms of a service agreement concluded with the Municipality, and may include a Registered Indigent, as contemplated in terms of the provisions of the Indigent Policy of the Municipality.
“D”		
1.15	“damage to the environment”	Means any pollution, degradation or harm to the environment whether visible or not.
1.16	“dailies”	Means putrescibles waste generated by hotels, restaurants, food shops, hospitals, and canteens that must be collected on a more frequent basis, normally a daily basis, to prevent the waste from decomposing and presenting a nuisance, environmental or health risk.
1.17	“domestic waste”	Means waste, excluding hazardous waste, generated on premises used solely for residential purposes and purposes of public worship, including halls or other buildings used for religious purposes, but does not include business waste, building waste, garden waste or bulky waste.
1.18	“dump”	Means to dispose of waste in any manner other than one permitted by-law and includes, without derogating from the generality of the foregoing, to deposit, discharge, spill or release waste, whether or not the waste is in a container in or at any place whatsoever whether publicly or privately owned including but no limited to vacant land, rivers, waterways, catchments, and sewage and storm water systems but excludes littering.
1.19	“DWAF”	Means the National Department of Water Affairs and

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		Forestry.
“E”		
1.20	“environment”	Has the meaning assigned to it in section 1 of the National Environmental Management Act, Act 107 of 1998, as amended from time to time.
1.21	“event waste”	Means waste that originates from the activities related to an event that is held within the municipal area of the Municipality.
“F”		
1.22	“firm”	Includes any juristic person or any association of persons established or operating in the Republic of South Africa.
“G”		
1.23	“garden waste”	Means waste generated as a result of normal domestic gardening activities, including grass cuttings, leaves, plants, flowers and other similar small and light organic matter, but does not include tree branches with a diameter thicker than 40mm at any point of its length, bulky waste, building waste or any waste generated as a result of garden service activities.
“H”		
1.24	“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.
1.25	“health care risk waste”	Means all hazardous waste generated at any health care facility such as a hospital, clinic, laboratory, medical research institution, dental or medical practitioner or veterinarian.
“I”		
1.26	“industrial waste”	Means waste generated as a result of manufacturing, maintenance, fabricating, processing or dismantling

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		activities, but does not include building waste, business waste, dailies, special industrial waste, hazardous waste, health care risk waste or domestic waste.
1.27	“Integrated Waste Management Plan”	Means an integrated waste management plan which is required by the Municipality in terms of this by-law.
“L”		
1.28	“litter”	Means any object or matter which is discarded by a person in any place except in an approved receptacle provided for that purpose or at a waste handling facility or waste disposal facility.
1.29	“local community”	In relation to the Municipality means that body of persons comprising: (a) the residents of the Municipality; (b) the ratepayers of the Municipality; (c) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affairs within the Municipality; and (d) visitors and other people residing outside of the municipal area who, because of their presence in the municipal area, make use of services or facilities provided by the Municipality.
“M”		
1.30	“Municipality”	Means the GREATER TAUNG LOCAL MUNICIPALITY, a local government and legal entity with full legal capacity as contemplated in section 2 of the Systems Act read with the provisions of Chapter 7 of the Constitution and sections 12 and 14 of the Structures Act, with its main place of business and the offices of the Municipal Manager, as envisaged in terms of the provisions of section 115(3) of the Systems Act, at: Taung Station, Main Road, TAUNG, NORTH WEST PROVINCE, and may, depending on the context, include: (a) its successor in title; or

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		<p>(b) a functionary, employee or official exercising a delegated power or carrying out an instruction, in the event of any power being delegated as contemplated in terms of the provisions of section 59 of the Systems Act, or exercising any lawful act in the furtherance of the Municipality's duties, functions and powers; or</p> <p>(c) an authorised service provider fulfilling a responsibility assigned to it by the Municipality through a service delivery agreement.</p>
1.31	“Municipal Integrated Waste Management Plan”	Means an Integrated Waste Management Plan prepared by the Municipality in terms of the provisions of section 12 of NEMWA.
1.32	“municipal waste management service” or “services”	<p>Means a waste management service that a municipality in terms of its powers and functions provides or may provide to or for the benefit of the local community irrespective of whether:</p> <p>(a) such service is provided or to be provided by the Municipality through an internal mechanism contemplated in section 76 or by engaging an external mechanism contemplated in section 76 of the Systems Act; and</p> <p>(b) fees, charges or tariffs are levied in respect of such service or not.</p>
1.33	“municipal tariff” or “tariff”	Means a fee, charge or tariff for services which the Municipality may set for the provision of a municipal waste management service to the local community, and includes a surcharge on such fee, charge or tariff.
“N”		
1.34	“NEMWA”	Means the National Environmental Management: Waste Act, Act 59 of 2008.
1.35	“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

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		waste, including but not limited to, the storage, placement, collection, transport or disposal of waste or by littering.
“O”		
1.36	“occupier”	Means any person who occupies premises or part thereof, without taking cognisance of the title under which he/she occupies the premises, and occupant has a corresponding meaning.
1.37	“owner”	Means: (a) the person in whose name the property is registered; (b) in the case where the person in whose name the property is registered, is insolvent or deceased, or is disqualified in terms of any legal action, the person who is responsible for administration or control of the property as curator, trustee, executor, administrator, legal manager, liquidator, usufructuary, servitude holder or any other duly authorised or appointed representative; (c) in the case where the Municipality or service provider is unable to establish the identity of such person, the person who is entitled to derive benefit from the property or any buildings thereon; (d) in the case of a lease agreement entered into for a period of 30 (thirty) years or longer, or for the natural life of the lessee or any other person mentioned in the lease, or is renewable from time to time at the will of the lessee indefinitely or for a period of periods which, together with the first period of the lease, amounts to 30 (thirty) years, the lessee or any other person to whom he has ceded his right, title and interest under the lease, or gratuitous successor to the lessee; (e) In relation to: (i) a piece of land delineated on a sectional title plan and which is registered in terms of the Sectional

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		<p>Title Act, Act 95 of 1986, without limiting it to the developer or body corporate of the common property;</p> <p>(ii) a section as defined in the Sectional Title Act, Act 95 of 1986, the person in whose name that section is registered in terms of a "sectional title deed", including the lawfully appointed representative or agent of such person;</p> <p>(f) any legal entity including but not limited to:</p> <p>(i) a company registered in terms of the Companies Act, Act 61 of 1973, a trust inter vivos, trust mortis causa, a close corporation registered in terms of the Close Corporation Act, Act 69 of 1984 and any voluntary organisation;</p> <p>(ii) any provincial or national government department, or local authority;</p> <p>(iii) any Municipality or management body established in terms of any legal framework applicable to the Republic of South Africa; and</p> <p>(iv) any embassy or other foreign entity in whose name the property is registered;</p> <p>(g) in relation to property owned by the Municipality and which has been disposed of, but which has not been transferred to the person to whom it has been disposed of, from the date of the disposition concerned, such person; and</p> <p>(h) in relation to property owned by or under the control or management of the Municipality while held under a lease or any express or tacit extension thereof or under any other contract or under servitude or right analogous thereto, the person so holding the immovable property.</p>
		"p"
1.38	"person"	Means any natural or juristic person, local government body

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		or like authority or an organ of state as defined in terms of section 239 of the Constitution, a company incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association, club or trust.
1.39	“premises”	Means any property or land or any building or structure above or below ground level and includes any vehicle, aircraft or vessel.
1.40	“property”	<p>Means:</p> <p>(a) immovable property registered in the name of a person/owner including in the case of a sectional title scheme, a sectional title unit registered in the name of any person/owner;</p> <p>(b) a right registered against immovable property in the name of a person excluding a mortgage bond registered against the property;</p> <p>(c) any piece of land, the external surface boundaries of which are delineated on:</p> <p>(i) a general plan or diagram registered in terms of the Land Survey Act, Act 9 of 1927 or in terms of the Deeds Registries Act, Act 47 of 1937 or;</p> <p>(ii) a sectional plan registered in terms of the Sectional Titles Act, Act 95 of 1986;</p> <p>which is situated within the area of the Municipality;</p> <p>(d) a land tenure right registered in the name of a person or granted to a person in terms of legislation; or</p> <p>(e) public service infrastructure.</p>
1.41	“public place”	Means and includes any public building, public road, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden, park, 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

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		the right to access.
1.42	“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.
“R”		
1.43	“radioactive material”	Means any substance consisting of, or containing, any radioactive nuclide, whether natural or artificial.
1.44	“radioactive waste”	Means any radioactive material which has been separated from the waste stream, and set aside for purposes of re-use, reclamation or recycling.
1.45	“receptacle”	Means an approved container for the purpose of temporary storage of domestic waste or business waste until removal thereof by the Municipality or a service provider.
1.46	“recovery”	Means the controlled extraction of a material or the retrieval of energy from waste to produce a product.
1.47	“recyclable waste”	Means waste which has been separated from the waste stream, and set aside for purposes of re-use, reclamation or recycling.
“S”		
1.48	“SANS Code”	Means the South African National Standard: 10228: The Identification and Classification of Dangerous Goods for Transport as amended from time to time.
1.49	“service agreement”	Means the written agreement concluded between the Municipality and a customer for the provision of municipal waste management services to premises once the Municipality has approved the customers official application

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		form for the rendering of such services to the customer and which contains the terms and conditions upon which the Municipality will render such services to the customer.
1.50	“service provider”	Means any person who has entered into a service delivery agreement with the Municipality in terms of the Systems Act.
1.51	“special industrial waste”	Means waste consisting of a liquid, sludge or solid substance, resulting from a manufacturing process, industrial treatment of the pre-treatment for disposal purposes of any industrial or mining liquid waste, which in terms of the Municipality’s drainage or sanitation by-laws may not be discharged into a drain or sewer.
1.52	“Structures Act”	Means the Local Government: Municipal Structures Act, Act 117 of 1998 and the regulations promulgated in terms thereof.
1.53	“Systems Act”	Means the Local Government: Municipal Systems Act, Act 32 of 2000 and the regulations promulgated in terms thereof.
“T”		
1.54	“Tariff Policy”	Means the Tariff Policy of the Municipality adopted in terms of the provisions of section 74(1) of the Systems Act.
1.55	“Tariff Schedule”	Means the schedule containing details pertaining to the levels and application of the various fees, charges or tariffs as approved by the Municipality from time to time.
1.56	“tenant”	Means a person who is entitled to the use and enjoyment of premises for the payment of rent as a result of an agreement concluded with a person who has the right to extent such rights regarding the premises.
1.57	“this by-law”	Means the Waste Management By-Law of the Municipality as set out herein.
“V”		
1.58	“verge”	Means a verge as defined in the National Road Traffic Act,

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		Act 93 of 1996.
“W”		
1.59	“waste”	<p>Means an undesirable or superfluous by-product, emission, residue or remainder of any process or activity, any matter, gaseous, liquid or solid or any combination thereof, which:</p> <ul style="list-style-type: none"> (a) is discarded by any person; or (b) is accumulated and stored by any person with the purpose of eventually discarding it with or without prior treatment connected with the discarding thereof; or (c) is stored by any person with the purpose of recycling, re-using or extracting a usable product from such matter, excluding: <ul style="list-style-type: none"> (i) water used for industrial purposes or any effluent produced by or resulting from such use which is discharged in compliance with the provisions of section 7(2) of the Water Services Act, Act 108 of 1997; (ii) any matter discharged into a septic tank or french drain sewerage system and any water or effluent contemplated by section 7(2) of the Water Services Act, Act 108 of 1997; (iii) building rubble used for filling or levelling purposes; (iv) any radio-active substance discarded in compliance with the provisions of the Nuclear Energy Act, Act 46 of 1999; (v) any minerals or substances produced by or resulting from activities at a mine or works as defined in section 1 of the Minerals and Petroleum Resources Development Act, Act 28 of 2002; and (vi) ash produced by or resulting from activities at

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		an undertaking for the generation of electricity under the provisions of the Electricity Act, Act 41 of 1987.
1.60	“waste disposal facility”	Means any facility or site which receives waste for disposal thereof, and which is operated in terms of a permit obtained from DWAF or any other competent authority or where such a facility is an incinerator, registration or such permission as is required by law, and includes garden waste handling facilities.
1.61	“waste generator”	Means any person or firm that generates or produces waste.
1.62	“waste management activity”	Has the same meaning assigned to it in section 1 of NEMWA.
1.63	“Waste Management Officer”	Means a Waste Management Officer designated in terms of the provisions of section 10 of NEMWA.
1.64	“waste management services”	Means waste collection, treatment, recycling and disposal services.
1.65	“waste transfer station”	Means a facility that is used to accumulate and temporarily store waste before it is transported to a recycling, treatment of waste disposal facility.
1.66	“wrapper”	Means a plastic or other suitable or approved material covering the totally encloses bales or slugs of compacted waste.

2. ABBREVIATIONS

In this by-law the following abbreviations will be used to signify the meaning or entity as indicated:

DEAT	The National Department of Environmental Affairs and Tourism.
DWAF	The National Department of Water Affairs and Forestry.
MEC	Member of the Executive Council of a province who is responsible for waste

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	management in the province.
MFMA	Local Government: Municipal Finance Management Act, Act 56 of 2003.
NEMWA	The National Environmental Management: Waste Act, Act 59 of 2008.
NWMS	National Waste Management Strategy.
SANS codes	Means the South African National Standard: 10228: The Identification and Classification of Dangerous Goods for Transport as amended from time to time.
SAWIS	National Waste Information System established by the national government in accordance with NEMWA.

3. TITLE AND APPLICATION

- (1) This by-law is known as the Waste Management By-law of the Municipality and is applicable to the municipal area of the Municipality.
- (2) This by-law revokes all previous by-laws, decisions and/or *ad hoc* clauses within any other by-law, regarding the subject matter of this by-law.

4. COMMENCEMENT AND VALIDITY

This by-law shall become law and enforceable upon approval by Council and publication in the Government Gazette.

5. RESPONSIBLE AUTHORITY

- (1) The responsible authority for the adoption and implementation of this by-law is the Municipality, and where applicable the Council of the Municipality.

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- (2) In terms of the provisions of section 9 of the NEMWA, the Municipality must exercise its executive authority to deliver municipal waste management services and perform its duty in relation to municipal waste management services, including waste collection, waste storage and waste disposal services, by –
- (a) adhering to all national and provincial norms and standards;
 - (b) integrating its waste management plans with its integrated development plans;
 - (c) ensuring access for all to such services;
 - (d) providing such services at an affordable price, in line with its Tariff Policy referred to in Chapter 8 of the Systems Act;
 - (e) ensuring sustainable services through effective and efficient management;
 - (f) keeping separate financial statements, including a balance sheet of the services provided.
- (3) In exercising its abovementioned executive authority, the Municipality may, amongst other things, set –
- (a) local standards for the separation, compacting and storage of solid waste that is collected as part of the municipal waste management service or that is disposed of at a municipal waste disposal facility;
 - (b) local standards for the management of solid waste that is disposed of by the Municipality or at a waste disposal facility owned by the Municipality, including requirements in respect of the avoidance and minimisation of the generation of waste and the re-use, recycling and recovery of solid waste;
 - (c) local standards in respect of the directing of solid waste that is collected as part of the municipal waste management service or that is disposed of by the Municipality or at a municipal waste disposal facility to specific waste treatment and disposal facilities; and

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- (d) local standards in respect of the control of litter.

6. LEGISLATIVE FRAMEWORK

This by-law is designed and must be implemented within the framework of *inter alia* the following legislation:

National legislation

- (a) the Air Quality Act, Act 39 of 2004;
- (b) the Constitution of South Africa, Act 108 of 1996;
- (c) the Environmental Conservation Act, Act 73 of 1989;
- (d) the Hazardous Substance Act, Act 5 of 1973;
- (e) the Health Act, Act 63 of 1977;
- (f) the Mineral and Petroleum Resources Act, Act 28 of 2002;
- (g) the Municipal Structures Act, Act 117 of 1998;
- (h) the Municipal Systems Act, Act 32 of 2000;
- (i) the National Environmental Management Act, Act 107 of 1998;
- (j) the National Environmental Management Waste Act, Act 59 of 2008;
- (k) the National Water Act, Act 36 of 1998;
- (l) the Occupational Health and Safety Act, Act 85 of 1993.

Provincial legislation

- (a) Hazardous Waste Management Plan for the North West Province;
- (b) Provincial Integrated Waste Management Plan of the North West Province;
- (c) North West Environmental Management Series 4 Waste Management.

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The Municipality's legislation

- (a) Municipal Integrated Waste Management Plan;
- (b) Waste Management By-Law.

7. POLICIES, STRATEGIES AND GUIDELINES

There are several strategies and guidelines relating to municipal waste management services which compliment this by-law and which must be recognised and taken into account in the implementation of this by-law, including *inter alia*:

- (a) The National Waste Management Strategy (NWMS);
- (b) Polokwane Declaration adopted at the National Waste Summit in 2001;
- (c) DEAT has produced Guidelines for the Compilation of Integrated Waste Management Plans which has to be used in conjunction with the Integrated Waste Management Planning;
- (d) minimum requirements for waste disposal by landfill, issued by DWAF;
- (e) DEAT published Working with Waste, a practical guide for municipal waste management;
- (f) White Paper on Integrated Pollution and Waste Management for South Africa (2000); and
- (g) National Domestic Waste Collection Standards.

8. BY-LAW PRINCIPLES

- (1) The Municipality has the responsibility to ensure that all waste generated

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within its jurisdiction is:

- (a) collected, transported, treated, disposed of or recycled in accordance with this by-law; and
 - (b) such collection, transportation, treatment, disposal or recycling takes account of the waste management hierarchy outlined in sub-section (2) below.
- (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) Any authorised official must, as far as reasonably possible, take into account the hierarchy specified in sub-section (2) above.

9. BY-LAW OBJECTIVES

- (1) The main objectives of this by-law are:
- (a) to give effect to the right obtained in section 24 of the Constitution by regulating waste management within the area of the Municipality's jurisdiction;
 - (b) to ensure that waste is avoided, or where it cannot altogether be avoided, minimised, re-used, recycled, recovered and disposed of in an environmentally sound manner;
 - (c) to regulate the collection, handling, storage, transport, recycling, treatment and disposal of waste;
 - (d) to regulate the pursuance of an integrated waste management

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- approach;
- (e) to regulate the provision of municipal waste management services by a service provider and commercial waste management services by commercial licensees; and
 - (f) to promote sustainable development and environmental justice through fair and reasonable measures for the management of waste within the Municipality's jurisdiction.
- (2) In pursuing the main objectives of this by-law, the Municipality shall:
- (a) endeavour to ensure local community involvement in local 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 waste management services and commercial waste management services;
 - (f) endeavour to achieve integrated waste management, planning and services in a local context;
 - (g) promote and ensure environmentally responsible municipal waste management services and commercial waste management services; and
 - (h) endeavour to ensure compliance with the provisions of this by-law.

10. DUTIES AND OBLIGATIONS

- (1) A waste generator must take all reasonable measures to:
- (a) reduce or avoid waste generation and minimise the toxicity of waste generated;

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- (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 sub-sections (1) and (2) above may be required by the Municipality or an Authorised Official of the Municipality to take measures to ensure compliance with these duties and obligations, which measures may be to:
- (a) investigate, assess and evaluate the impact that any activity or situation, within the Municipality's jurisdiction has on the environment and to present the findings to the Municipality;
 - (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 damage to the environment;
 - (d) contain or prevent the movement of pollutants or other causes of damage to the environment;

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- (e) eliminate or mitigate any source of damage to the environment;
- (f) remedy the effects of the damage to the environment.

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CHAPTER 2**WASTE MANAGEMENT**

PART 1**11. WASTE MANAGEMENT OFFICER**

- (1) The Council of the Municipality must designate in writing a Waste Management Officer.
- (2) The Waste Management Officer shall be responsible for regulating, controlling, managing and enforcing the provisions of this by-law and National and Provincial Legislation relating to waste management.
- (3) The Waste Management Officer shall be entitled to delegate to any other official of the Municipality any of his/her powers or obligations in terms of this by-law.

PART 2**12. MUNICIPAL WASTE MANAGEMENT PLAN**

- (1) The Municipality must:
 - (a) prepare a Municipal Integrated Waste Management Plan in accordance with the prescriptions of National and Provincial legislation;
 - (b) submit its Municipal Integrated Waste Management Plan to the MEC for approval; and

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- (c) include the approved Municipal Integrated Waste Management Plan in its Integrated Development Plan contemplated in Chapter 5 of the Systems Act.
- (2) The waste generators of the following classes of waste must submit an Integrated Waste Management Plan in writing to the Waste Management Officer for approval prior to the generation of the waste to be dealt with in terms of the said plan:
- (a) business waste;
 - (b) industrial waste;
 - (c) building waste;
 - (d) event waste;
 - (e) hazardous waste;
 - (f) those who sort waste or undertake a recycling, re-use or waste recovery activity including but not limited to scrap dealers, recycling groups and buyback centres;
 - (g) any other person who is giving notice to do so by the Waste Management Officer.
- (3) An Integrated Waste Management Plan must include:
- (a) an assessment of the quantity and type of waste that will be generated;
 - (b) a description of the waste management services the waste generator will require to store, collect, transport and dispose of such waste;
 - (c) a description of how the waste generator intent separating recyclable and non-recyclable material at the point of source;
 - (d) the waste minimisation and pollution prevention plans of such waste generator;

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- (e) the impact or potential impact on the environment of the waste created by the waste generator;
 - (f) the type or characteristics of waste produced of an environmentally sensitive nature or the amount of natural resources that are consumed in the manufacturing or production process that result in waste;
 - (g) targets for waste productions through waste minimisation, re-use, recycling and recover measures or programmes of the minimised consumption of natural resources;
 - (h) the methods of disposal of such waste;
 - (i) a reporting plan on the implementation of the integrated waste management plan;
 - (j) details of the person responsible for the implementation of the plan; and
 - (k) any further information that the Municipality may require.
- (4) Industrial entities must include in an Integrated Waste Management Plan, measures or actions to be taken to manage waste, the phasing out of the use of certain substances, opportunities for reduction of waste generation through changes to product design, product production or packaging to reduce resource consumption.
- (5) Industrial and business entities must provide for the education, marketing and sales information to influence the perception and behaviour of customers to ensure recycling of products.
- (6) When requested to submit an Integrated Waste Management Plan or a further Integrated Waste Management Plan in terms of this by-law, a waste generator shall do so in the time stipulated and comply with the terms and

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conditions set out by the Waste Management Officer for the generation, minimisation, storage, collection and disposal of such waste.

- (7) The Waste Management Officer must consider the plan and:
- (a) approve it with conditions and give directions for the implementation thereof;
 - (b) request that additional information be furnished or a revised plan be submitted for approval;
 - (c) require amendments to be made within a time frame specified by them;
 - (d) reject the plan and provide reasons therefore;
 - (e) approve such a plan and specify conditions pertaining to such approval.
- (8) If an Integrated Waste Management Plan is rejected or not submitted at all, the Waste Management Officer shall give directives as to what waste management measures must be taken by the waste generator and should the waste generator failed to take such measures within the time frame specified by the Waste Management Officer, the Municipality shall implement such measures and the waste generator will be liable for the costs thereof.
- (9) If one of the waste generators for the categories of waste refer to in sub-section (2) above wishes to be exempt for submitting a waste management plan, an application must be made in writing to the Waste Management Officer, stipulating reasons for the application.

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PART 3**WASTE MANAGEMENT INFORMATION SYSTEM****13. ESTABLISHMENT OF A WASTE MANAGEMENT INFORMATION SYSTEM**

- (1) The Municipality must establish and maintain a waste management information system which records how waste is managed within the municipal area of the Municipality.
- (2) The waste management information system may include any information relating to or connected with the management of waste within the municipal area.

14. PURPOSE OF THE WASTE MANAGEMENT INFORMATION SYSTEM

- (1) The purpose of the waste management information system is for the Municipality to:
 - (a) record data relating to the implementation of the Municipal Integrated Waste Management Plan and the management of waste in the municipal area;
 - (b) record information held by the Municipality in relation to any of the matters referred to in section 15(1) of this by-law;
 - (c) furnish information upon request or as required by law to the Provincial or National government (National Waste Information System – SAWIS);
 - (d) gather information and undertake strategic planning regarding to potential and actual waste generators, service providers and commercial licensees;

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- (e) provide information to waste generators, service providers, commercial licensees and the local community in order to:
 - (i) facilitate monitoring of the performance of the Municipality, service providers and commercial licensees, and, where applicable, waste generators;
 - (ii) stimulate research; and
 - (iii) assist the Municipality to achieve the main objectives of this by-law specified in section 9; and
- (f) keep a register of waste management activities that have been licensed in terms of NEMWA, the holders of such licenses and the locations where the licensed waste management activities are/or may be conducted.

15. PROVISION OF INFORMATION

- (1) The Municipality may, subject to the provisions of any other law including the common law, require any waste generator, commercial licensee, service provider or person involved in or associated with the provisions of the municipal waste management service or any commercial waste management service within the jurisdiction of the Municipality to furnish information to the Municipality which may be reasonably be required for the waste management information system, and which may concern:
 - (a) significant sources of waste generation and the identification of the waste generators;
 - (b) quantities and classes of waste generated;
 - (c) management of waste by waste generators;
 - (d) waste handling, waste treatment and waste disposal facilities;
 - (e) population and development profiles;
 - (f) reports on progress in achieving waste management targets;

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- (g) the management of radioactive waste;
 - (h) any information which has been compiled in accordance with section 41(2)(f) of this by-law;
 - (i) markets for waste by class of waste or category; and
 - (j) any other information required by legislation, regulations or guidelines.
- (2) The Municipality may determine when and how often information must be furnished.

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CHAPTER 3**MUNICIPAL WASTE MANAGEMENT SERVICES**

PART 1**PROVIDING ACCESS TO MUNICIPAL WASTE MANAGEMENT SERVICES****16. DUTY TO PROVIDE ACCESS TO MUNICIPAL WASTE MANAGEMENT SERVICES**

- (1) The Municipality has a duty to the local community to progressively ensure efficient, affordable, economical and sustainable access to municipal waste management services.
- (2) This duty referred to in sub-section (1) above is subject to:
- (a) the obligation of the local community to pay the prescribed municipal fee, charge or tariff for the provision of municipal waste management services, which must be in accordance with any nationally prescribed norms and standards for rates and tariffs; and
 - (b) the right of the Municipality to differentiate between categories of users and geographical areas when setting service standards and levels of service for the provision of municipal waste management services. In exercising the right in this section, the Municipality must comply with national legislation and have regard to the factors set out in sub-section (3) below.
- (3) The Municipality must take the following factors into account in ensuring access to municipal waste management services:
- (a) the waste management hierarchy set out in section 8(2) above;
 - (b) the need to use resources efficiently;
 - (c) the need for affordability;

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- (d) the requirements of operational efficiency;
- (e) the requirements of equity; and
- (f) the need to protect human health and the environment.

17. THE PROVISION OF MUNICIPAL WASTE MANAGEMENT SERVICES

- (1) The Municipality must as far as reasonable possible and subject to the provisions of this by-law:
 - (a) provide for the collection of domestic waste, business waste and dailies on a regular basis, which in the case of dailies requires collection on a daily basis; and
 - (b) provide recycling facilities,
at a cost to end users determined in accordance with the prescribed municipal fee, charge or tariff as set out in the Tariff Schedule of the Municipality.
- (2) The Municipality shall be the exclusive provider of the municipal waste management services for the collection, transportation and disposal of domestic waste, within its jurisdiction and may appoint one or more service providers to carry out this function on its behalf.
- (3) In relation to municipal waste management services, the Municipality shall determine:
 - (a) the quantities of waste that will be collected;
 - (b) which residential or commercial premises require municipal waste management services more frequently than the regular collection service for reasons of health, safety and environmental protection;
 - (c) the maximum amount of waste that may be placed for collection without the provision of an additional service or the imposition of an additional fee, charge or tariff; and

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- (d) specify requirements for the provision of waste storage areas and access to such areas in respect of new premises which are constructed after the commencement of this by-law.

- (4) The Municipality shall provide, or require the generator of the waste to provide, an approved receptacle for the storage of domestic waste, business waste and dailies pending collection. Where such receptacle is provided by the Municipality, it remains the property of the Municipality.

- (5) In providing municipal waste management services, the Municipality shall determine or designate:
 - (a) collection schedules;
 - (b) locations for placing approved receptacles for collection;
 - (c) which types of waste generated by the occupier of any premises are recyclable waste and determine the conditions for their storage or collection; and
 - (d) which waste items are unsuitable for collection.

- (6) The Municipality may require a generator of domestic waste, and/or business waste and dailies to compact that portion of the waste that is compactable. Such a requirement may be imposed where the quantity of domestic waste, and/or business waste and dailies generated on premises requires daily removal of more than the equivalent of eight 240 litre bins and where, in the opinion of the Municipality, the major portion of such waste is compactable. The occupier of a premise may elect to compact any volume of such waste and place it into an approved receptacle or wrapper approved by the Municipality: Provided that:
 - (a) the capacity of the wrapper must not exceed 85 litres and the mass of the wrapper and contents must not exceed 35 kilograms; and

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- (b) after the waste has been compacted and put into the wrapper, it must be placed in the approved receptacle and must be stored so as to prevent damage to the wrapper or any nuisance arising until collected.
- (7) Any approved receptacle used in terms of sub-section (6) above shall be collected, emptied and returned to the premises by the Municipality at such intervals as it may deem necessary.
- (8) The Municipality may review any decisions taken in terms of sub-section (5) above at any time.
- (9) The Municipality must in writing notify all generators of domestic waste, business waste and dairies of any decisions taken in terms of sub-section (3) or (4) above relating to his/her premises.
- (10) Non-receipt of a notice contemplated in sub-section (9) above, does not affect the application or any provision by neither this by-law nor the liability to pay any prescribed municipal fee, charge or tariff as provided for and set out in the Tariff Schedule of the Municipality.

PART 2**USING MUNICIPAL WASTE MANAGEMENT SERVICE****18. OBLIGATIONS OF GENERATORS OF DOMESTIC WASTE, BUSINESS WASTE AND DAILIES**

- (1) Any person generating domestic waste, business waste and dairies, other than waste which has been designated by the Municipality as recyclable as contemplated in section 17(5)(c) above, must place such waste in an approved receptacle.

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- (2) No person may allow an animal in his control to interfere with, overturn or damage a receptacle, which has been placed for collection.
- (3) The owner or occupier of the premises must ensure that:
- (a) no hot ash, unwrapped glass or other domestic waste, business waste or dailies which may cause damage to approved receptacles or which may cause injury to the Municipality's employees while carrying out their duties in terms of this by-law, is placed in approved receptacles before suitable steps have been taken to avoid such damage or injury;
 - (b) no material, including any liquid, which by reason of its mass or other characteristics is likely to render an approved receptacle unreasonably difficult for employees of the Municipality to handle or carry, is placed in such approved receptacle;
 - (c) every approved receptacle on the premises is kept closed save when waste is being deposited in it or discharged from it, and every approved receptacle is kept in a clean and hygienic condition;
 - (d) no approved receptacle delivered by the Municipality is used for any purpose other than the storage of domestic waste, business waste and dailies and, in particular, that no fire is lit in such approved receptacle;
 - (e) an approved receptacle is placed outside the entrance to the premises, before a time and on a day of the week specified by the Municipality by written notice to the owner or occupier of the premises, except where, on written application to the Municipality, the Municipality has indicated in writing that it is satisfied that a person is physically infirm or otherwise incapable of complying with the notice;

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- (f) an approved receptacle, placed in accordance with sub-section (e) above, is not damaged and properly closed so as to prevent the dispersal of its contents; and
 - (g) dailies are not placed in a receptacle or compactor where they are able to contaminate another waste stream.
- (4) The owner or occupier of premises must provide space and any other facilities considered necessary by the Municipality on the premises for the storage of approved receptacles.
- (5) The space provided in terms of sub-section (4) above must:
- (a) be in such a position on the premises as will allow the storage of approved receptacles without their being visible from a street or public place;
 - (b) if dailies are generated on premises:
 - (i) be in a position which will allow the collection and removal of that waste by the Municipality's employees without hindrance; and
 - (ii) not be more than 20m from the entrance to the premises used for the collection of waste by the Municipality;
 - (c) be so located as to permit convenient access to and egress from such space for the Municipality's waste collection vehicles;
 - (d) comply with any further reasonable requirements imposed by the Municipality by written notice to the owner or occupier of the premises; and
 - (e) be constructed in accordance with the requirements of any applicable legislation relating to buildings.

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- (6) The owner or occupier of premises must place or cause the approved receptacles to be placed in the space provided in terms of sub-section (4) above and must at all times keep them there.
- (7) Notwithstanding the provisions of sub-section (6) above:
- (a) in the case of buildings erected, or a building, the building plans of which have been approved, prior to the commencement of this by-law, or
- (b) in the event of the Municipality being unable to collect and remove waste from the space provided in terms of sub-section (4) above;
- the Municipality may, having regard to the avoidance of nuisance and the convenience of collection of waste, indicate a position within or outside the premises concerned where approved receptacles must be placed for the collection and removal of such waste and such receptacles must then be placed in such position at such times and for such period as the Municipality may require.

19. LIABILITY TO PAY FOR MUNICIPAL WASTE MANAGEMENT SERVICE

- (1) The owner of premises is liable to pay to the Municipality the prescribed municipal fee, charge or tariff as set out in the Tariff Schedule of the Municipality for the provision of the municipal waste management service, and is not entitled to exemption from, or reduction of the amount of such fee, charge or tariff by reason of not making use, or of making a partial or limited use, of the municipal waste management service.
- (2) (a) The prescribed municipal fee, charge or tariff becomes due and payable on the due date for payment as stipulated in the account.
- (b) Non-receipt of an account does not relieve the person concerned of the liability to pay the prescribed municipal fee, charge or tariff before or on the due date.

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- (3) The Municipality reserves the right to review such municipal fees, charges or tariffs contemplated in sub-section (1) above on an annual basis, and it will be set out in the Tariff Schedule of the Municipality.

- (4) The Municipality may exempt Registered Indigents from paying the prescribed municipal fees, charge of tariffs for municipal waste management services as outlined in the Indigent Policy and Tariff Schedule of the Municipality.

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CHAPTER 4**COMMERCIAL WASTE MANAGEMENT SERVICES**

PART 1**PROVISION OF COMMERCIAL WASTE MANAGEMENT SERVICES BY
COMMERCIAL LICENSEES AND FLOW CONTROL****20. PROVISION OF COMMERCIAL WASTE MANAGEMENT SERVICES BY
COMMERCIAL LICENSEES**

- (1) Except in the case of garden waste, only a commercial licensee may provide a commercial waste management service.
- (2) Any person requiring a commercial waste management service must satisfy himself/herself that the commercial licensee is licensed by the Municipality to provide such commercial waste management service, and is licensed by the national and provincial authority if a licence is required for the service it provides.

**21. PROVISION FOR MUNICIPALITY CO-ORDINATION OF WASTE
DISPOSAL**

- (1) The Municipality may by a notice published in the North West Provincial Gazette, direct that a category of waste be disposed of at a particular waste disposal facility or waste handling facility.
- (2) No person may dispose of a category of waste at a waste disposal facility or waste handling facility which is not designated for receipt of that category of waste in a notice in terms of sub-section (1) above or designated by the Municipality under other empowering legislation prior to the commencement of this by-law.

PART 2**BUSINESS, INDUSTRIAL AND RECYCLABLE WASTE****22. STORAGE OF BUSINESS, INDUSTRIAL AND RECYCLABLE WASTE**

- (1) The owner or occupier of premises on which business, industrial or recyclable waste is generated, must ensure that until such time as such waste is collected by a commercial licensee from the premises on which it was generated:
- (a) the waste is stored in a bulk container or other approved receptacle; and
 - (b) no nuisance or health risk, including but not limited to dust, is caused by the waste in the course of generation, storage or collection.

23. COLLECTION AND DISPOSAL OF BUSINESS, INDUSTRIAL AND RECYCLABLE WASTE

- (1) The owner or occupier of premises generating business, industrial or recyclable waste must ensure that:
- (a) the container in which the waste is stored, is not kept in a public place except when so required for collection;
 - (b) the waste is collected by a commercial licensee within a reasonable time after the generation thereof; and
 - (c) that the service rendered by the commercial licensee is only in respect of that portion of the business, industrial or recyclable waste authorised in the licence concerned.
- (2) A commercial licensee must dispose of business, industrial and recyclable waste at an appropriately permitted waste handling facility or waste disposal facility in compliance with the provisions of section 21(2) and 33 of this by-

law.

PART 3

GARDEN WASTE AND BULKY WASTE

24. STORAGE, COLLECTION AND DISPOSAL OF GARDEN WASTE AND BULKY WASTE

- (1) The owner or occupier of a premises on which garden waste is generated, may compost garden waste on the property, provided 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 or on which bulky waste is generated must ensure that such waste is collected and disposed within a reasonable time after the generation thereof.
- (3) Any person or commercial licensee may remove garden waste and bulky waste, provided once such waste has been collected from the premises on which it was generated, it is deposited at a garden waste handling facility in accordance with the provisions of section 33 of this by-law.
- (4)
 - (a) At the written request of the owner or occupier of premises, the Municipality may deliver an approved receptacle to the premises for the purpose of storing garden waste in addition to any approved receptacle delivered to the premises for the storage of domestic waste.
 - (b) The provisions of sub-section 18(3) above, read with the necessary changes, apply to an approved receptacle, delivered in terms of sub-section (a), for the storing of garden waste.

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- (5) If, in the course of providing the municipal waste management service, the Municipality is of the opinion that it would cause inconvenience to members of the public not, at the same time, to remove garden and bulky waste, the Municipality may remove such waste, if such waste has been placed in an approved receptacle in the space designated for domestic waste, in which event the prescribed municipal fee, charge or fee for domestic waste, read with the necessary changes, applies.

PART 4**BUILDING WASTE****25. GENERATION OF BUILDING WASTE**

- (1) The owner or occupier of a premises on which building waste is generated, must ensure that:
- (a) until disposal, all building waste, together with the receptacles 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 instruction from the Municipality, any structure necessary to contain the building waste is constructed.

26. STORAGE OF BUILDING WASTE

- (1) The Municipality may, subject to the provisions of sub-section (2) below,

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determine conditions to place a receptacle for the storage and removal of building waste on a verge.

- (2) Every receptacle used for the storage and removal of building waste must:
- (a) have clearly marked on it the name, address and telephone number of the person in control of that 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 waste, so that no displacement of its contents can occur.

27. COLLECTION AND DISPOSAL OF BUILDING WASTE

- (1) The owner or occupier of premises on which building waste is generated, must ensure that the waste is disposed of by a commercial licensee.
- (2) All building waste must be disposed at a waste disposal facility designated for that purpose by the Municipality in terms of section 21 of this by-law, unless the Municipality has given written consent for the building waste to be used for the purpose of land reclamation or for recycling.
- (3) A consent given in terms of sub-section (2) above shall be subject to the conditions as the Municipality may deem necessary.

PART 5**SPECIAL INDUSTRIAL, HAZARDOUS OR HEALTH CARE RISK WASTE****28. GENERATION OF SPECIAL INDUSTRIAL, HAZARDOUS OR HEALTH CARE RISK WASTE**

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- (1) Any person who will carry on an activity which will generate hazardous or health care risk waste must before carrying on that activity:
 - (a) prepare an Integrated Waste Management Plan setting out what provision is made for managing, storing, treating, collecting, transporting and disposing of hazardous or health care risk waste generated from such activities;
 - (b) provide proof that all waste management services will be provided by a commercial licensee;
 - (c) provide a copy of a valid public health permit if the activity that will generate hazardous or health care risk waste is listed in the Municipality's Public Health By-Law.

- (2) The Integrated Waste Management Plan referred to in this section should be submitted to the Municipality or authorised official for approval before the activities which will generate waste identified in sub-section (1) above are carried out and the plan must include:
 - (a) the information as set out in section 12(3)(a)-(k) of this by-law;
 - (b) an analysis of the composition of the waste concerned; and
 - (c) certification of the analysis of the composition of the waste by an appropriately qualified chemist, if required by the Municipality.

- (3) If waste identified in sub-section (1) above is being generated as a result of activities which commenced prior to the commencement of these by-laws, the generator must prepare an integrated waste management plan and submit it to the Municipality or authorised official for approval within 180 days of the commencement of these by-laws.

- (4) The integrated waste management plan must be renewed and updated regularly as determined by the Municipality.

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- (5) It is an offence to carry on an activity which generates hazardous or health care risk waste without an approved integrated waste management plan.

29. STORAGE OF SPECIAL INDUSTRIAL, HAZARDOUS OR HEALTH CARE RISK WASTE

- (1) Any person carrying on an activity which generates special industrial, hazardous or health care risk waste, must ensure that such waste generated on the premises is kept and stored thereon until it is collected from the premises.
- (2) Special industrial, hazardous or health care risk waste stored on premises, must be stored in such a manner that it does not become a nuisance or causes harm to human health or damage to the environment, and in accordance with the requirements of any applicable legislation relating to buildings.
- (3) Special industrial, hazardous or health care risk waste must be stored in an approved receptacle and for a period not exceeding 90 (ninety) days or any other maximum period stipulated by the Department of Water and Environmental Affairs, North West provincial government or the Municipality, before collection.
- (4) Any person who stores special industrial hazardous or health care risk waste must at least take steps to ensure that:
- (a) the containers in which this waste is stored are intact and not corroded or in any other way rendered unfit for the safe storage of this waste;
 - (b) adequate measures are taken to prevent accidental spillage or leaking;
 - (c) the waste cannot be blown or washed away;

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- (d) nuisances such as odour, visual impacts and breeding of vectors do not arise;
- (e) pollution of the environment and harm to health are prevented; and
- (f) the waste is collected by a commercial licensee within the time prescribed in sub-section (3) above.

30. COLLECTION AND DISPOSAL OF SPECIAL INDUSTRIAL, HAZARDOUS OR HEALTH CARE RISK WASTE

- (1) Only a commercial licensee may transport special industrial, hazardous and health care risk waste and must do so in accordance with the requirements of the conditions of the licence issued to him/her under Chapter 9 of this by-law as well as requirements of the relevant SANS codes, in respect of the type of vehicle, the markings and manner of construction of such vehicle, procedures for safety and cleanliness, and documentation relating to the source, transportation and disposal of such waste, and subject to the requirements of any other legislation.
- (2) A commercial licensee licensed to collect and dispose of special industrial, hazardous or health care risk waste, must inform the Municipality at intervals stipulated in the licence issued under Chapter 9 of this by-law, of each removal of special industrial, hazardous or health care risk waste, the date of such removal, the quantity, the composition of the waste removed and the waste disposal facility at which the waste has been disposed of.
- (3) A commercial licensee must dispose of special industrial, hazardous or health care risk waste at a waste disposal facility designated by the Municipality as a waste disposal facility and in accordance with the provisions of section 33 of this by-law.

CHAPTER 5**TRANSPORTATION AND DISPOSAL OF WASTE**

31. TRANSPORTATION OF WASTE

- (1) No person may:
- (a) operate a vehicle for the conveyance of waste upon a public road unless the vehicle has a body of adequate size and construction for the type of waste being transported;
 - (b) fail to maintain a vehicle used for the conveyance of waste in a clean, sanitary and roadworthy condition at all times;
 - (c) fail to cover loose waste on an open vehicle with a tarpaulin or suitable net;
 - (d) cause or permit any waste being transported in or through the Municipality's jurisdiction to become detached, leak or fall from a vehicle transporting it, except at a waste disposal facility;
 - (e) knowingly dispose waste at a waste transfer station, recycling facility and/or waste disposal facility that is not permitted to accept such waste; or
 - (f) transport waste in a manner that would cause nuisance or environmental pollution.
- (2) Subject to the provisions of sub-section (1) above, all transportation of waste must comply with the provisions of the National Road Traffic Act, Act 93 of 1996.
- (3) Any person engaged in the transportation of waste must take all reasonable measures to prevent any spillage of waste or littering from a vehicle used to transport waste, and where waste is spilled, immediately clean up the spilled waste.

32. WASTE TRANSFER STATIONS

- (1) Any waste generator must:
- (a) utilise appropriate waste transfer stations as directed by the Municipality; and
 - (b) adhere to the operational procedures of a transfer station as set out by the Municipality.

33. DISPOSAL OF WASTE

- (1) (a) Waste generated in the Municipality's jurisdiction must be disposed of at a waste disposal facility or waste treatment facility where such disposal is permitted by the Municipality.
- (b) In disposing of waste, a commercial licensee must comply with the provisions of section 21(2) of this by-law and with the provisions of any other law regulating the disposal of waste.
- (2) No person may burn waste either in a public or private place, for the purpose of disposing of that waste.
- (3) No person may incinerate waste either in a public or private place, except in an incinerator at a place where the relevant national or North West provincial authorities permit such incineration, or at a place designated by the Municipality for that purpose.
- (4) Notwithstanding the provisions of sub-section (1) above, a person may dispose of those forms of recyclable waste specified by the Municipality in a notice in terms of section 21 of this by-law, at a designated garden waste handling facility, but may do so only if all such waste is brought to the facility

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in a vehicle able to carry a maximum load of one tonne or less.

- (5) The disposal of waste at any waste disposal facility is, in addition to any condition imposed by the DWAF, subject to such conditions as the Municipality may impose, including the hours of opening and closing, the nature of the waste which may be disposed of, the position in any such waste disposal facility in which the waste may be placed and any other matter which the Municipality considers necessary to ensure the environmentally sound management of waste.
- (6) Every person who enters a waste disposal facility shall:
- (a) do so solely at his/her own risk and the Municipality shall accept no responsibility for the safety of such person, or for any damage or losses sustained by such person as a result of his/her presence at, or on a waste disposal facility;
 - (b) enter a waste disposal facility at an access point determined by the person in charge of the waste disposal facility;
 - (c) at the request of the person in charge of a waste disposal facility, provide the Municipality or that person with any information regarding the composition of the waste disposed of or to be disposed of;
 - (d) comply with any instruction by the person in charge of a waste disposal facility in regard to access to, the actual place where, and the manner in which, waste must be deposited; and
 - (e) adhere to all the operational procedures of the waste disposal facility, as approved by the Municipality.
- (7) No person may:
- (a) bring any liquor or intoxicating or narcotic substance onto a waste disposal facility or enter such facility under the influence of liquor or

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- such substance;
- (b) enter a waste disposal facility for any purpose other than the disposal of waste in terms of this by-law, unless authorised to do so by the person in charge of the waste disposal facility or the Municipality and then only at such times and subject to such conditions as the Municipality or such person may impose;
 - (c) dispose of waste at a waste disposal facility where the disposal of the waste concerned is not permitted; or
 - (d) light a fire on a waste disposal facility without the prior written consent of the person in charge of that facility.
- (8) Any person who contravenes sub-section (7)(c) above is liable for all costs reasonably incurred by the Municipality in removing or otherwise dealing with the waste concerned.
- (9) The person in charge of a waste disposal facility may at any time require a vehicle or a container on a vehicle brought into the waste disposal facility for the purposes of disposing of waste, to be weighed at a weighbridge.
- (10) The person in charge of a waste disposal facility or an Authorised Official may, at a waste disposal facility, inspect the content and nature of waste to be disposed of or processed and may take samples and test any waste found on any vehicle to ascertain its composition.
- (11) Any person contravening any preceding provision of this section commits an offence and shall be refused entry or instructed by the person in charge to leave a waste disposal facility and if such person fails or refuses to comply with such instruction, he/she shall be removed from such facility by an Authorised Official or a member of the South African Police Department.

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- (12) No person may store waste in a manner which may cause pollution or a nuisance.

34. OWNERSHIP OF WASTE

- (1) The person holding a waste management licence for a waste management activity becomes the owner of all waste the person handles. A person who generates waste is the owner thereof until it is collected by the Municipality or a commercial licensee which then becomes the owner thereof.
- (2) All and any waste disposed of at a waste disposal facility or waste treatment facility, where such facility is under the control of the Municipality and such disposal is permitted by the Municipality, shall become the sole property of the Municipality at the time of the disposal, and no person who is not duly authorised by the Municipality to do so shall handle, remove or interfere with such waste.

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CHAPTER 6**RECYCLING OF WASTE**

35. REDUCTION, RE-USE, RECYCLING AND RECOVERY OF WASTE

- (1) All generators and holders of waste must ensure that waste is avoided, or where it cannot altogether be avoided, minimised, re-used, recycled or recovered wherever possible and disposed of in an environmentally sound manner.
- (2) Any person who is undertaking any activity involving the 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.
- (3) Any person undertaking the activities as contemplated in sub-section (2) above must adhere to the requirements set out in National and North West Provincial legislation.
- (4) No person may undertake to collect, transport, sort, store, re-use, recycle or recover waste with the intention of making profit, including scrap dealers, waste treatment facilities and formalised recycling groups unless the person is a commercial licensee in terms of Chapter 9 of this by-law.
- (5) Sub-section (4) above 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.

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- (6) The Municipality may require the owner or occupier of a premise to separate their waste and use different receptacles provided by the Municipality.
- (7) Where the Municipality has provided separate receptacles for recyclable materials, no person shall use other receptacles for recyclable material.
- (8) The owner or occupier of premises on which recyclable waste is generated and separately stored, must ensure that:
- (a) the approved waste receptacle in which the waste is stored is not kept in a public place except when so required for collection;
 - (b) until such time as such waste is collected by a commercial licensee from the premises on which it was generated or stored, the waste is placed in a approved waste receptacle, and in a secure location;
 - (c) the approved waste receptacle placed for collection is not damaged and is properly closed so as to prevent the dispersal of its contents;
 - (d) every approved waste receptacle on the premises is kept closed, save when waste is being deposited in it or discharged from it, and every approved receptacle is kept clean and a hygienic condition;
 - (e) nuisances such as odour, visual impacts and breeding of vectors do not arise; and
 - (f) The waste is collected by a commercial licensee within a reasonable time after the generation thereof, but at least once per month.
- (9) A commercial licensee must handle, treat or dispose of recyclable waste at a permitted waste handling, treatment or disposal facility.

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CHAPTER 7**LISTED WASTE MANAGEMENT ACTIVITIES**

36. COMMENCEMENTS, CONDUCTING OR UNDERTAKING OF LISTED WASTE MANAGEMENT ACTIVITIES

- (1) Any person conducting a listed waste management activity listed in terms of section 19 of NEMWA, must upon request by an official of the Municipality, provide proof of compliance with the requirements of a licence issued by the competent authority.

- (2) Any person conducting or intending to conduct any activity contemplated in sub-section (1) above must, at least 60 days before commencement, conducting or undertaking of such activity, inform the Municipality's Waste Management Officer in writing of such intention.

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CHAPTER 8

SERVICE PROVIDERS

37. AGREEMENT, DELEGATION AND CONSUMER CHARTER

- (1) The Municipality may discharge any of its obligations under section 16 of this by-law by entering into a service delivery agreement with a service provider or service providers in terms of the Systems Act.
- (2) Subject to the provisions of the Systems Act or any other legislation, the Municipality may assign to a service provider any power enjoyed by the Municipality under this by-law. Provided that the assignment is required for the service provider to discharge an obligation under its service delivery agreement.
- (3) Any reference in this by-law 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 agreement.
- (4) Service providers must provide services in accordance with a consumer charter which must be drawn up in consultation with the Municipality and which must:
 - (a) accord with the provisions of this by-law;
 - (b) be accessible to the public;
 - (c) establish the conditions of the service including collection times; and
 - (d) provide for the circumstance in which municipal waste management services may be limited.

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CHAPTER 9**COMMERCIAL LICENSEES**

38. COMMERCIAL LICENCE REQUIREMENTS

- (1) Subject to the provisions of section 46 of this by-law, no person may provide commercial waste management services for the collection and transport of waste in the municipal area unless such person has registered with the Municipality and obtained a commercial licence authorising these commercial waste management services within the municipal area of the Municipality, as well as obtaining a relevant licence from the national or North West provincial authorities where one is required.
- (2) A commercial licence issued under this Chapter:
- (a) is incapable of cession or assignment without the prior written consent of the Municipality;
 - (b) is valid only for the service and category of waste specified therein; and
 - (c) is valid for the period set out in the commercial licence.

39. COMMERCIAL LICENCE APPLICATIONS

- (1) An application for a commercial licence to provide a commercial waste management service must be:
- (a) made in writing on a form prescribed by the Municipality and accompanied by the documentation specified in that form; and
 - (b) accompanied by the prescribed municipal fee, charge or tariff.
- (2) The Municipality must consider each application, having regard to the

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following:

- (a) The applicant's compliance, where relevant, with NEMWA, the National Road Traffic Act, Act 93 of 1996, and with this by-law;
 - (b) the environmental, health and safety record of the applicant;
 - (c) the nature of the commercial waste management service to be provided;
 - (d) the financial technical and managerial competency and experience of the applicant; and
 - (e) any other factors which the Municipality considers relevant.
- (3) Before considering an application made in terms of sub-section (1) above, the Municipality may require the applicant to furnish such information as it may require.
- (4) After considering the application in terms of sub-section (2) above, the Municipality must either:
- (a) approve the application by issuing a commercial licence subject to any condition it may impose; or
 - (b) reject the application, which rejection must be accompanied by reasons.
- (5) Notwithstanding sub-sections (2) and (4) above, an application for a commercial license by an applicant who is licensed by the National or North West Provincial to undertake or provide a waste management activity, will upon the applicant providing a copy of a valid waste management license and any information reasonably required by the Municipality be granted.
- (6) If the Municipality fails to consider and grant or reject a commercial licence application within 60 days of its receipt of the application, it must inform the

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applicant in writing that the period for consideration is extended and must inform the applicant of the date by which a decision will be made.

40. SUSPENSION AND REVOCATION OF COMMERCIAL LICENCES

- (1) A commercial licence issued under this Chapter may be suspended or revoked by the Municipality on the grounds that the commercial licensee:
- (a) is in breach of its waste management licence and the National or North West Provincial authorities have suspended or revoked the licence;
 - (b) has failed to comply with any provision of this by-law;
 - (c) has failed to comply with any provision of any National or Provincial legislation which regulates the collection, transportation or disposal of waste;
 - (d) has failed to comply with any commercial licence condition contemplated in section 39(4)(a) of this by-law; or
 - (e) on any other ground which the Municipality considers relevant, which is fair and reasonable in the circumstances.
- (2) A commercial licence may only be suspended or revoked after:
- (a) the commercial licensee has been given written notice that the Municipality is considering the suspension or revocation of the commercial licence; and
 - (b) after the commercial licensee has been given a period of 30 (thirty) days after service of the notice to make representations to the Municipality as to why the commercial licence should not be suspended or revoked.
- (3) The Municipality must:
- (a) make a decision within 14 (fourteen) days of receipt of the

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representations contemplated in sub-section (2)(b) above, if any, or within 14 (fourteen) days after the commercial licensee informed the Municipality that he/she does not wish to make representations, or if no representations are received, within 14 days of the expiry of the period referred to in sub-section (2)(b) above; and

- (b) inform the commercial licensee of its decision in writing within 7 (seven) days of making it.

- (4) Subject to the provisions of the Promotion of Access to Information Act, Act 2 of 2000, the Municipality may not disclose any confidential commercial information submitted as part of a commercial licence application procedure to any person other than a Municipality official requiring such information to perform his functions for the purposes of this by-law.

41. TERMS AND CONDITIONS FOR COMMERCIAL LICENCE

- (1) When issuing a commercial licence under this Chapter, the Municipality may, subject to the provisions of sub-section (2) below, impose any reasonably necessary condition in furthering the Municipality's Waste Management Policy.

- (2) Any commercial licence issued by the Municipality under this Chapter must:
 - (a) specify the geographical area of operation of the commercial licensee;
 - (b) specify the commercial licence period for which the commercial licence is valid and the procedure for renewal of the commercial licence;
 - (c) specify the nature of the commercial waste management service the commercial licensee may provide;
 - (d) specify every category of waste in respect of which the commercial licensee may provide a commercial waste management service;

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- (e) contain a requirement that the licensee must comply with, and ensure compliance by his/her employees, agents and sub-contractors, with this by-law and applicable National and Provincial legislation; and
- (f) require the commercial licensee to keep monthly written records on a form prescribed by the Municipality in respect of:
 - (i) the quantities of each category of waste collected and transported during the licence period;
 - (ii) the quantities of waste received, the location of the sources generating the waste, the identity of the generator and, where the commercial licensee manages different categories of waste, the quantity of each category managed;
 - (iii) emission levels where the license holder manages a licensed incinerator;
 - (iv) any activity related to the achievement of local, provincial or national targets where such targets have been determined, and must include the results of monitoring such activity;
 - (v) any waste minimisation or recycling activities in which the commercial licensee is involved;
 - (vi) consumer supply figures; and
 - (vii) complaints received by the public.
- (g) require the commercial licensee to take reasonable steps to prevent his employees, agents and sub-contractors from committing any act or omission in the course of their employment that may cause harm to humans or damage to the environment;
- (h) require the commercial licensee to have appropriate property and liability insurance for any waste disposal or handling facilities owned by it in accordance with an insurance programme approved by the Municipality under the licence, which approval may not subject the Municipality to any liability if the insurance programme proves inadequate;

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- (i) stipulate procedures for amendment of the commercial licence;
- (j) stipulate circumstances under which the licence may be revoked or suspended by the Municipality and set out an appeal procedure;
- (k) prescribe the payment of a licence fee; and
- (l) contain any other term or condition that the Municipality considers relevant.

42. RENEWAL OF COMMERCIAL LICENCES

- (1) A commercial licensee who wishes to renew his/her commercial licence must apply to renew the commercial licence concerned at least 90 (ninety) days prior to the expiry of the existing commercial licence.
- (2) The Municipality must consider and grant or reject a commercial licence renewal application within 60 days of the receipt of the application subject to the provisions of section 39(3) and in accordance with section 39(4) of this by-law.
- (3) If the Municipality fails to consider and grant or reject a commercial licence renewal application within 60 days, it must inform the applicant in writing that the period for consideration is extended and must inform the applicant of the date by which a decision will be made.
- (4) A commercial licence in respect of which application for renewal has been made in terms of sub-section (1) above, remains valid until a final decision has been made in respect of that application.

43. DISPLAY OF COMMERCIAL LICENCES

- (1) Upon issuing a commercial licence under this Chapter of this by-law, the

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Municipality must issue to the commercial licensee a numbered sticker for each waste transporting vehicle to be used for the purpose concerned confirming that the commercial licensee is authorised to collect and transport the category of waste specified on the sticker.

- (2) The stickers must vary in colour for each category of waste and commercial waste management service provided.
- (3) The commercial licensee must affix such sticker to each vehicle to be utilised to provide the commercial waste management service and display the sticker at all premises utilised for providing the commercial waste management service.
- (4) Waste for processing or disposal at a waste disposal facility will only be received at such facility from a commercial licensee who is licensed and on whose vehicle a sticker required in terms of sub-section (3) above, is displayed.

44. PROHIBITED CONDUCT

- (1) No commercial licensee may:
 - (a) intentionally or negligently operate in contravention of any condition of the commercial licence concerned;
 - (b) intentionally or negligently fail or refuse to give information, when required to do so in terms of this by-law, or give false or misleading information;
 - (c) intentionally or negligently fail to take all reasonable steps to prevent a contravention of this by-law, by any act or an omission of his/her employee acting in the course and scope of his/her duties;
 - (d) collect or transport any waste except in a properly constructed,

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watertight vehicle or in a suitable container that prevents spillage of waste, the suitability of the vehicle to be dependant on the waste stream contemplated in section 31(1) of this by-law, to be collected or transported, as specified in the National Road Traffic Act, Act 93 of 1996;

- (e) cease operation at a waste disposal facility without a closure plan approved by DWAF and the Department of Environmental Affairs and Tourism or any other competent authority;
- (f) abandon a waste disposal facility or waste handling facility; or
- (g) dispose of hazardous or special industrial waste otherwise than by disposing of it at a waste disposal facility which has been permitted for the disposal of this category of waste

45. EXEMPTIONS

The Municipality may, having regard to the main objectives of this by-law contemplated in section 9 of this by-law, and its Municipal Integrated Waste Management Plan, by notice in the Provincial Gazette, exempt any type of commercial waste management service from any provision of this Chapter to the extent and subject to the terms specified in such notice.

46. TRANSITIONAL PROVISIONS

- (1) Any person who is at the commencement of this by-law lawfully providing a commercial waste management service for which a commercial licence is required under this Chapter, must within 90 (ninety) days of such commencement, make application for a commercial licence in terms of section 39 of this by-law, failing which such person's right to provide such commercial waste management service lapses.
- (2) If an application is submitted in terms of sub-section (1) above, the applicant may continue to provide the commercial waste management service in

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respect of which the application has been made until a final decision has been taken by the Municipality in respect of such application.

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CHAPTER 10**LITTERING AND DUMPING**

47. DUTY TO PROVIDE FACILITIES FOR LITTER

- (1) It is the duty of the Municipality, or the owner of the property, to ensure that the sufficient number of approved receptacles is provided for the discarding of litter by the public, on any premises to which the public has access.
- (2) The Municipality, or the owner of the property, must ensure that every receptacle provided in terms of sub-section (1) above, is:
- (a) emptied and cleansed periodically to ensure that no receptacle or its contents become a nuisance;
 - (b) constructed in such a manner as to ensure that it is weatherproof and animal proof;
 - (c) suitably anchored so that it cannot be inadvertently overturned;
 - (d) of a suitable size so that the receptacles on the premises are capable of containing all litter likely to be generated on the premises;
 - (e) placed in a location convenient for the use by users and occupants of the premises to discourage littering or the accumulation of waste; and
 - (f) maintained in good condition.

48. 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;

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- (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/her control to do any of the acts contemplated in sub-sections (a), (b) or (c) above.
- (2) Notwithstanding the provisions of sub-section (1) above, the Municipality, or the owner of the property 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 from the premises concerned to prevent the litter from becoming a nuisance.
- (3) A person who contravenes a provision of this section commits an offence.

49. PROHIBITION OF DUMPING

- (1) No person may deposit, dump, leave or permit the depositing, dumping or leaving of any waste, whether for gain or otherwise, upon any land or in any building of which he/she is the owner or occupier except if such deposit, dumping or leaving is made in accordance with the provisions of this by-law.
- (2) Should a person perform any of the acts referred to in sub-section (1) above, the Municipality may by written notice require:
- (a) the person directly or indirectly responsible for dumping, accumulating, placing, depositing, or leaving the waste; or
 - (b) the owner of the waste, whether or not he is responsible for dumping, accumulating, placing, depositing, or leaving the waste; or

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- (c) the owner of the property on which the waste was dumped, accumulated, placed, deposited, or left, whether or not he/she is responsible therefore;
- to remove the waste within the period stated in the notice.
- (3) If a person fails to comply with the requirements of a written notice, the Municipality may dispose of, destroy or remove the waste and may recover the cost of doing so from the person or persons to whom the notice was issued.
- (4) If waste has been deposited in or on any unoccupied land in contravention of sub-section (1) above and it is necessary that the waste be forthwith removed or other steps be taken to eliminate or reduce the consequences of the deposit, the Municipality may remove the waste from the property or take other steps to eliminate or reduce the consequences of the deposit or, as the case may require, to remove the waste and take those steps, and is entitled to recover the cost incurred by it:
- (a) from the owner of the property, unless he/she proves that he/she neither made nor knowingly caused nor knowingly permitted the deposit of the waste; or
- (b) from any person who deposited or knowingly caused or knowingly permitted the deposit of any of the waste.
- (5) Any waste removed by the Municipality belongs to the Municipality and may be dealt with accordingly.
- (6) A person who contravenes a provision of sub-section (1) above or who fails to comply with a notice issued in terms of sub-section (2) above commits an offence.

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CHAPTER 11**ENFORCEMENT AND LEGAL SERVICES**

50. COMPLIANCE WITH THIS BY-LAW AND OTHER LAWS

- (1) The owner or occupier of a premises is responsible for ensuring compliance with this by-law in respect of all or any of its stipulations.
- (2) Any person who, or an entity which, requires a waste management related license or authorisation in terms of National, Provincial or municipal legislation will have to prove on request, to an Authorised Official that such person or entity has obtained the appropriate license by submission thereof to the Municipality within 30 days or such other period as specified by the Authorised Official.

51. AUTHORISATION OF AN AUTHORISED OFFICIAL

- (1) The Municipality or a service provider as contemplated in section 37 of this by-law, may authorise any person in its employ to be an Authorised Official.
- (2) The Waste Management Officer of the Municipality is an Authorised Official.

52. FUNCTIONS AND POWERS OF AN AUTHORISED OFFICIAL

- (1) An Authorised Official may execute work, conduct an inspection and monitor and enforce compliance with this by-law and, as applicable, National and Provincial legislation relating to waste management.
- (2) Subject to the provision of any other applicable law, an Authorised Official must carry out the functions contemplated in this by-law and the powers set

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out herein.

53. SERVICE OF NOTICES AND DOCUMENTS

- (1) A notice, instruction, order or other 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, instruction, order or other 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/her personally or to his/her duly authorised agent;
 - (b) when it has been left at his/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/she has nominated an address for legal purposes, having been delivered to such an address;
 - (d) if he/she has not nominated an address for legal purposes, having delivered it to the address given by him/her in his/her application for the provision of waste management services, for the reception of an account for the provision of waste management services;
 - (e) when it has been sent by pre-paid registered or certified post addressed to his/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 sub-sections (a) to (f) above, by affixing it to a conspicuous place on the premises concerned.

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54. COMPLIANCE NOTICES

- (1) An Authorised Official may issue a written compliance notice to any person contravening the provisions of this by-law.
- (2) A compliance notice in terms of sub-section (1) above will:
- (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 and state his/her case in writing to the Municipality within a specified period, unless the owner, occupier or other person was given such an opportunity before the compliance notice was served;
 - (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 compliance 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, within the specified period, comply with a written compliance notice served on him/her by the Municipality in terms of this by-law, the Municipality may take such action as in its opinion is necessary to ensure compliance, including:

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- (a) undertaking the actions and/or work necessary and recovering the cost of such actions and/or work from the owner, occupier or other person, as the case may be; or
 - (b) instituting legal proceedings against the owner, occupier, or other person, as the case may be in terms of section 112 of the Systems Act; and/or
 - (c) the imposition of a fine.
- (4) In the event of an emergency, notwithstanding any other provisions of this by-law, the Municipality may without prior notice undertake the work contemplated in sub-section (3) above and recover such costs from the owner, occupier or other person, as the case may be.
- (5) The actual costs recoverable by the Municipality in terms of sub-sections (3) and (4) above shall be the full costs associated with such work.
- (6) In the case where compliance with a compliance 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 compliance notice or document issued in terms of sub-section (2) above 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.
- (8) An Authorised Official who is satisfied that the owner or occupier or person apparently in control of any premises has satisfied the terms of a compliance

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notice, may issue a *compliance certificate* to that effect.

55. 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/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 him/herself through written proof of authorisation.

56. USING FORCE TO ENTER

Force may not be used to affect entry to execute work or conduct an inspection on any premises in terms of section 101 of the Systems Act, unless an emergency arises.

57. 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.

58. OFFENCES AND PENALTIES

- (1) Any person who:
 - (a) contravenes or fails to comply with any provisions of this by-law;
 - (b) fails to comply with any notice issued in terms of this by-law;

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- (c) fails to comply with any lawful instruction given in terms of this by-law; or
- (d) who obstructs or hinders any Authorised Official in the execution of his/her duties under this by-law,

is guilty of an offence and shall on conviction be liable for the payment of a minimum fine of R500.00 but not exceeding R10 000.00 or imprisonment for a minimum period of 6 months but not exceeding 2 years, or to both such fine and such imprisonment, or such fine or imprisonment as the Court may deem appropriate.

- (2) The Court may in addition to any penalty imposed in terms of sub-section (1) above, order a person to repair the damage, make good the loss, rehabilitate the environment, remove waste, or determine what measures must be taken by such person and the payment of the expenses incurred in respect thereof or any other costs or damages.
- (3) The Court may, when considering any sentences for an offence in terms of this by-law, take into account the following:
 - (a) that a person delayed in complying with or failed to comply with the terms or notices or directions given to that person under this by-law;
 - (b) that a person obtained a financial advantage or was to obtain a financial advantage as a result of the commission of the offence;
 - (c) the severity of the offence in terms of its impact or potential impact on health, wellbeing, public safety and the environment.

59. REPEAL

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

NOTICE – CHANGE OF TELEPHONE NUMBERS: GOVERNMENT PRINTING WORKS

As the mandated government security printer, providing world class security products and services, Government Printing Works has adopted some of the highly innovative technologies to best serve its customers and stakeholders. In line with this task, Government Printing Works has implemented a new telephony system to ensure most effective communication and accessibility. As a result of this development, our telephone numbers will change with effect from 3 February 2014, starting with the Pretoria offices.

The new numbers are as follows:

- Switchboard : 012 748 6001/6002
- Advertising : 012 748 6205/6206/6207/6208/6209/6210/6211/6212
- Publications Enquiries : 012 748 6052/6053/6058 GeneralEnquiries@gpw.gov.za
 - Maps : 012 748 6061/6065 BookShop@gpw.gov.za
 - Debtors : 012 748 6060/6056/6064 PublicationsDebtors@gpw.gov.za
 - Subscription : 012 748 6054/6055/6057 Subscriptions@gpw.gov.za
- SCM : 012 748 6380/6373/6218
- Debtors : 012 748 6236/6242
- Creditors : 012 748 6246/6274

Please consult our website at www.gpwonline.co.za for more contact details.

The numbers for our provincial offices in Polokwane, East London and Mmabatho will not change at this stage.

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001.
Tel: 748 6052, 748 6053, 748 6058

Also available at the **North-West Province**, Private Bag X2036, Mmabatho, 8681. Tel. (0140) 81-0121

Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaat Sak X85, Pretoria, 0001.
Tel. Tel: 748 6052, 748 6053, 748 6058

Ook verkrygbaar by die **Noordwes-provinsie**, Privaat Sak X2036, Mmabatho, 8681. Tel. (0140) 81-0121