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**City of Cape Town  
Solid Waste Directorate**

# **Integrated Solid Waste Management Plan**

## ***Final Draft By-law***

**October 2004**



Prepared  
By



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## EXPLANATION REGARDING THE STRUCTURE AND FRAMEWORK OF THE INTEGRATED WASTE MANAGEMENT BY-LAW (DRAFT 3.1)

In order to facilitate the better understanding of the draft by-law an explanation about the structure and framework is furnished below. This is also in response to some comments that the by-law is comprehensive.

- It must be remembered that the by-law deals with IWM and as such there is direct cross-fertilisation between it and the IWMP, as both are dependent on each other for successful implementation.
- The by-law seeks to
  - Repeal
  - Amend
  - Consolidate
  - Reformthe existing legal situation within the City.
- As such existing laws must be addressed and dealt with. In addition the proposed changes, methods, policies etc suggested by the IWMP must be incorporated.
- At the same time a move is made away from the existing legal framework (which focuses largely on collection and end-of-pipe) to accommodate more recent national legal developments, policies and strategies. The by-law was also drafted in anticipation of the Draft National Integrated Waste Management Bill which will impose drastic changes (insofar as waste management is concerned) on local authorities, and to ensure that the City is prepared from a legal point of view once the Draft Bill becomes a law.
- The by-law must also establish and enshrine the IWM hierarchy, and to give effect to same. As we all know, this is a new principle insofar as by-laws are concerned; consequently new provisions had to be drafted.
- The by-law also incorporated many comments and suggestions received some time ago when the drafting process commenced.
- Since the by-law is consolidating and/or repealing various current by-laws from the former municipalities the by-law has to incorporate the various provisions now scrapped and/or amended. It must be remembered that the new by-law is basically a compilation of various existing by-laws, and as such must address issues like collection and disposal (of all the various waste streams/types), use/provision of bins/bags, the actual collection of waste (by Council or waste contractors). Furthermore issues like the actual waste management (pertaining to council sites and landfills) must continue to be regulated.
- All of the above do result in the by-law becoming longer.
- The only really “new” elements of the by-law (when comparing it to existing versions or principles) are:
  - Incorporating principles of IWM and the waste hierarchy into the entire by-law and also Ch 2 Part 2
  - Waste Information System – Ch 2 Part 3
  - Ch 5 – Waste contractors
  - Waste inspectors - Ch 6 Part 1
  - Compliance notices, recovery of costs – Ch 6 Part 2 (partly new)

- The by-law is fairly much in line with similar by-law developments in South Africa, notably Johannesburg and the Umzimkhulu Municipality.
- A final comment: the by-law was purposely drafted to give Council wide powers. This does not mean that Council must implement and exercise all the powers, it simply gives Council the choice to make use of them if and when desired.

The by-law is broken up into several chapters and parts (please refer to the table of contents), each of which deals with specific issues or waste streams. The following is an overview of the structure of the by-law:

### ***Ch 1 – Definitions***

This deals with definitions. These are either based on existing by-laws (taken over or modified accordingly), other legislation (incl national), and to a certain extent foreign legislation dealing with IWM and/or waste management.

### ***Ch 2 – Powers and responsibilities***

#### **Part 1 – Municipal Services**

This briefly outlines the scope of services, makes provision for tariffs (especially to cater for IWM principles, and also to give Council the power to make use of tariffs as waste minimisation tool.

#### **Part 2 – Waste management**

This introduces and 'legalises' the (IWM) waste hierarchy. It also gives Council the power to draft IWM guidelines for specific industries, sectors etc. Council further has the power to order waste and integrated resource management audits (feedback is needed on whether this should stay in).

#### **Part 3 – Waste Information System**

This will very soon become a nationwide legal requirement, and in anticipation provisions were inserted to cater for this. It also sets out the scope, purpose and power of the WIS.

### ***Ch 3 – Provisions relating to the storage, collection and disposal of waste***

#### **Part 1 – General provisions**

This is largely based on existing by-laws and only modified slightly insofar as IWM principles are concerned. As such this Part merely takes over and consolidates existing legislation.

#### **Part 2 – Garden, bulky [and domestic special] waste**

Note: Domestic special waste is a suggestion from my side and is aimed at household hazardous waste (eg batteries, fluorescent tubes, old paint, pesticides etc).

This Part is also based largely on existing by-laws and only modified slightly insofar as IWM principles are concerned. As such it merely takes over and consolidates existing legislation. It will be noted that no obligation is imposed on Council to collect garden or bulky waste.

#### **Part 3 – Trade waste**

I have tried to incorporate Claire McKinnon's suggestions and original comments. As requested far greater control is given to Council to check up on trade waste, in particular that waste generators are required to furnish proof of disposal and that they are making use of a waste contractor. This Part is also based to an extent on existing by-law provisions.

#### **Part 4 – Builder's waste**

This Part is also based largely on existing by-laws, the only addition being the incorporation of building and construction industry IWM guidelines.

The reason for these guidelines is to address the problem of builder's waste, especially that of large developments. Many foreign cities (eg Melbourne) and countries (eg USA – through their EPA) have such guidelines as well. The by-law would enable Council to develop such guidelines if desired. I

have subsequently noticed that the City's EMD has already drafted some guidelines to that effect, and have met with somebody of that dept to discuss the possible inclusion of IWM guidelines. Naturally this particular section can be taken out if it is felt that this aspect should be dealt with otherwise.

#### **Part 5 – Industrial waste**

This Part is also based on existing by-laws (eg collection, storage, disposal). Section 32 (industrial waste information) was put in so that Council can have a better understanding of waste volumes, type, quantities etc generated, and also the manner and where such waste is disposed. This could tie in with the general waste information system, alternatively could be used only for purposes of gathering information about industrial waste. This particular section can also be left out if wanted.

#### **Part 6 – Hazardous, special industrial and medical waste**

This Part is also based on existing by-laws (eg collection, storage, disposal, giving notice to Council prior to disposal etc). I left the question of whether collection and disposal should only be done by a (registered ?) waste contractor, or also by the waste generator open.

#### ***Ch 4 – Provisions relating to Council sites and waste disposal sites***

This chapter copies over most of the provisions of the current CMC Waste Management By-law (which will be repealed) to regulate and cover matters like conduct on sites, provision for sites, ownership of waste (by Council).

The only new provision is section 43 (recovery, recycling etc of waste by Council) – this was done to provide some regulation and control over recovery and recycling activities on Council sites. It was discovered during the Gap Analysis that this was not catered for in existing by-laws.

#### ***Ch 5 – Waste contractors***

This reasoning behind this chapter is partly based on existing by-laws (eg City of CT Environmental Health By-law, and the draft Western Cape's draft Medical Waste Management Bill) in terms of which contractors are required to register themselves, while waste generators must keep detailed records about waste generated etc.

Furthermore, based on the input from Claire McKinnon regarding greater control over trade waste (quite correctly so), it was felt that the overall control over waste contractors should be greater and stricter.

Since there currently are no existing by-laws (with the exception of environmental health legislation) covering registration of waste contractors, several provisions of this Chapter do require feedback from the City. Obviously, if it is felt that waste contractors should be controlled otherwise (if at all) then this particular chapter can be left out, alternatively shortened. Care should then, however, be taken that we are not creating a conflict as regards certain waste (eg medical waste) which is covered elsewhere.

#### ***Ch 6 – Enforcement***

##### **Part 1 – Waste inspectors**

This is not covered in existing Cape Town by-laws, although by-laws like those of Johannesburg and Umzimkhulu do cater for this.

It was also personally felt that this could be an excellent opportunity for the City to do both on site as well as general waste management control. Currently this is largely done by Law Enforcement who do not have the necessary expertise or background to enforce environmental and/or waste related legislation.

It is now understood that the City is looking at something similar, and it was therefore suggested that a meeting be arranged with the relevant role players to finalise this Chapter.

##### **Part 2 – Compliance notices, recovery of costs etc**

This is not covered (alternatively not sufficiently enough) in existing Cape Town by-laws, although by-laws like those of Johannesburg and Umzimkhulu do cater for this.

This particular Part requires feedback from the City so that it can be finalised or dealt with accordingly.

### **Part 3 - Offences**

This is based partly on existing Cape Town by-laws, but mainly on the provisions of by-laws of other local authorities. It also ties in to an extent with Parts 1 and 2 of this Chapter (both of which still need to be workshopped and discussed extensively), and as such possibly requires amendments or deletions.

### ***Ch 7 – General provisions***

These provisions are fairly common and standard and were taken over from other by-laws.

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## CITY OF CAPE TOWN

### DRAFT INTEGRATED WASTE MANAGEMENT BY-LAW

(Draft 3.1)

#### General explanatory notes for this draft:

Where a portion has been marked **[light blue]** this indicates an explanation of what the intention behind a particular section/provision is, and also on what legislation or other document it is based.

Where a portion has been marked **[purple]** this indicates an uncertainty or suggestion on my part as to what should be put in, and which needs further internal discussion, especially with other potential role players/depts who previously did not form part of workshops held.

The By-law has purposefully been phrased in wide terms giving Council broad enabling powers to introduce several different options in terms of municipal services, integrated waste management, developing guidelines and policies, targeting specific areas, sectors or businesses etc. Council is not obliged to implement the various proposed measures (with the exception of the waste management hierarchy as this will soon be a legal requirement in terms of pending national legislation). Instead Council can make use of the powers the By-law seeks to give in a manner and at a time Council deems appropriate.

In drafting this By-law extensive research was made of pending SA legislation (national, provincial and local), and also foreign legislation (eg EU, Australian, New Zealand, Philippines, India). Reference was further made to foreign guidelines, policies and practices.

While this By-law is progressive and in theory quite far reaching (if Council decides to implement any of the new powers it is given) it is by no means extraordinary. The research revealed that most of these powers are, or soon will be, commonplace in many other countries.

Finally, even SA legislation and policies like the White Paper, NWMS, Draft National Integrated Waste Management Bill and the recent amendments to NEMA (especially insofar as appointment of inspectors is concerned) provide a clear indication of where pollution and integrated waste management legislation is heading.

The Municipal Systems Act was also consulted insofar as the provision of municipal services is concerned.

The purpose of this draft By-law is therefore to ensure that the City will be complying with such trends and developments.

**Dumping and littering** was purposefully not dealt with in this By-law. It is currently dealt with by the Dumping and Littering By-law (2002). It is felt that the former should remain a separate by-law as it contains (in theory at least) excellent penal provisions. Dumping and littering are a serious and costly problem for the City, and having the power to hand out harsh(er) fines/sentences is quite useful. It is doubtful, or at the very least problematic, whether it would be possible to get the same “buy-in” and support for similar fines/sentences if we were to repeal that By-law and incorporate it into the new By-law. Leaving the Dumping and Littering By-law in place would also not “harm” the legal process or make the enforcement/administration of the new By-law, or its IWM principles, more difficult.

The City’s comments would, however, be appreciated in this regard.

## **ARRANGEMENT OF SECTIONS**

### **CHAPTER 1 – DEFINITIONS**

1. Definitions

### **CHAPTER 2 – POWERS AND RESPONSIBILITIES**

#### **Part 1 – Municipal service**

2. Provision of municipal service
3. Tariff
4. Building development contribution

#### **Part 2 – Waste management**

5. Waste management hierarchy
6. Implementation of waste management hierarchy
7. Integrated waste management guidelines
8. Waste and integrated resource management audits

#### **Part 3 – Waste Information System**

9. Establishment of a waste information system
10. Purpose of the waste information system
11. Provision of information

### **CHAPTER 3 – PROVISIONS RELATING TO THE STORAGE, COLLECTION AND DISPOSAL OF WASTE**

#### **Part 1 – General provisions**

12. Notice to Council
13. Collection and disposal of waste by Council
14. Provision of bins (AND BAGS ?)
15. Utilisation of bins (AND BAGS)
16. Putting out of waste
17. Provision and securing of waste storage place or area
18. Sorting over of waste
19. Access for Council
20. Accumulation and storage of waste
21. Burning of waste
22. Transportation of waste

#### **Part 2 – Garden, bulky [and domestic special] waste**

23. Storage, collection and disposal of garden, bulky [and domestic special] waste

### **Part 3 – Trade waste**

24. Collection of trade waste
25. Trade waste information
26. Storage and disposal of trade waste

### **Part 4 – Builder's waste**

27. Collection of builder's waste
28. Depositing and storage of builder's waste
29. Transport and disposal of builder's waste
30. Building and construction industry integrated waste management guidelines

### **Part 5 – Industrial waste**

31. Collection of industrial waste
32. Industrial waste information
33. Storage and disposal of industrial waste

### **Part 6 – Hazardous, Special Industrial and Medical Waste**

34. Notice to Council and provision of hazardous, special industrial and medical waste information
35. Storage of hazardous, special industrial and medical waste
36. Collection of hazardous, special industrial and medical waste
37. Disposal of hazardous, special industrial and medical waste
38. Special provisions relating to medical waste

## **CHAPTER 4 – PROVISIONS RELATING TO COUNCIL SITES AND WASTE DISPOSAL SITES**

39. Planning for waste disposal sites
40. Provisions for waste disposal
41. Conduct at Council sites
42. Ownership of waste
43. Recovery, recycling etc of waste by Council

## **CHAPTER 5 – WASTE CONTRACTORS**

44. Registration of waste contractor
45. Suspension, variation or withdrawal of registration
46. Record keeping

## **CHAPTER 6 - ENFORCEMENT**

### **Part 1 – Waste inspectors**

47. Appointment of waste inspector
48. Powers of waste inspectors
49. Offences in relation to waste inspectors

## **Part 2 – Compliances notices, recovery of costs etc**

- 50. Compliance notices
- 51. Objections to compliance notices
- 52. Failure to comply with compliance notice
- 53. Recovery of costs

## **Part 3 – Offences**

- 54. Offences and penalties

## **CHAPTER 7 – GENERAL PROVISIONS**

- 55. Serving of documents
- 56. Exemptions
- 57. Restriction of liability
- 58. Council and State bound
- 59. Conflict
- 60. Savings
- 61. Interpretation
- 62. Repeal
- 63. Short title and commencement

## **SCHEDULE**

## **CHAPTER 1 – DEFINITIONS**

### **1. Definitions**

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

“**bag**” means any bag stipulated or approved by Council from time to time, whether supplied by Council or not, made of plastic or any other suitable material for the storage, depositing and disposal of waste;

“**bin**” means any receptacle or container stipulated or approved by Council from time to time, whether supplied by Council or not, for the storage, depositing and disposal of waste;

**“builder’s waste”** means any waste generated during the building, construction, repair, alteration, renovation, excavation or demolition of any road, surface, structure, building or premises, and includes builders rubble, earth, vegetation and rock displaced during such building, construction, repair, alteration, renovation, excavation or demolition;

**“building complex”** includes any single or adjoining premises consisting of -

- (a) two or more shops and/or offices;
- (b) high density residential premises; and/or
- (c) any other collection, assortment or cluster of two or more establishments or enterprises carrying on any business, trade, profession, occupation, service or industry;

within one or more than one building, irrespective of whether or not such building complex is managed or controlled by any other person;

**“building development”** means the development, construction, extension, enlargement or substantial upgrading of any new or existing building or any other structure used for the purposes of business, trade, profession, occupation, service, industry, agriculture, residence, recreation, religion, education or any other purposes and the infrastructure in connection therewith;

**“bulky waste”** means any domestic waste or trade waste which by virtue of its mass, shape, size, quantity or temporary extraordinary generation cannot be conveniently stored in a bin or container stipulated or approved by Council or which cannot be conveniently removed during the ordinary municipal service;

**“buy-back centre”** means a facility which purchases any waste, materials, products or by-products for the purposes of recovery, reuse or recycling;

**“composting facility”** means a facility for the purposes of receiving, processing or composting of garden waste and other organic materials or waste authorised by Council, but does not include a drop-off centre;

**“Council”** means the City of Cape Town and includes any authorised committee, functionary or official;

**“Council site”** means a buy-back centre, composting facility, drop-off centre, materials recovery facility, transfer station or waste disposal site operated and/or owned by Council;

“**depositing**” includes leaving, placing, throwing, dropping onto land, and “deposit” shall have a similar meaning;

“**disposal**” means the discharge, depositing, dumping, spilling, leaking, placing of waste on or at any premises or place set aside by Council for such purposes, and “dispose” shall have a similar meaning;

“**domestic waste**” means any waste generated on or in any premises used for residential purposes and purposes of recreation, religion, education and welfare, and also includes agricultural properties and small holdings, but does not include garden waste (unless specifically determined or authorised by Council subject to any conditions or limitations Council may impose), bulky waste, trade waste, builder’s waste, industrial waste, hazardous waste, special industrial waste and medical waste;

“**domestic special waste**” means any waste, excluding garden or bulky waste, generated, accumulated, stored or deposited on or in any residential premises used for residential purposes and purposes of recreation, religion, education and welfare, and also includes agricultural properties and small holdings, which by reason of its nature, composition, type, quality, quantity or volume causes or may cause a nuisance, public health risk or pollution;

*[Reason for inserting accumulated, stored or deposited: such waste is often not generated on the residential premises but only kept there, eg, pesticides, paints]*

“**drop-off centre**” means a facility which receives and temporarily stores –

- (a) garden waste, but does not include a composting facility;
- (b) specified domestic waste already separated at source which has the potential for recovery, reuse or recycling; and/or
- (c) any other waste authorised by Council

for the purposes of recovery, reuse, recycling, composting or final disposal, and which is transported to the drop-off centre in a vehicle not exceeding one ton payload, but does not include a transfer station unless the drop-off centre is situated on the same premises or land as the transfer station;

“**garden waste**” means any waste generated as a result of normal gardening activities and includes plants, leaves, grass cuttings, flowers, weeds, hedges, other small and light organic matter, but does not include branches, stems, trunks or roots having a diameter or length in excess of that determined by Council from time to time;

“**hazardous waste**” means any waste, excluding domestic special waste, containing, or contaminated by, poison, any corrosive agent, any flammable substance having an open flash-point

of less than 90 degrees Celsius, an explosive, radioactive material, any chemical or any other waste that has the potential even in low concentrations to have a significant adverse effect on public health or the environment because of its inherent toxicological, chemical, ignitable, corrosive, carcinogenic, injurious and physical characteristics, and includes the carcass of a dead animal;

**“high density residential premises”** means a building, land or premises containing more than four residential units, and irrespective of whether or not such high density residential premises is managed or controlled by any other person;

**“industrial waste”** means any waste generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities, but does not include domestic waste, garden or bulky waste, builder’s waste, trade waste, special industrial waste, hazardous waste or medical waste;

**“integrated waste management”** means an holistic and integrated system and process for the generation, storage, sorting, recovering, reuse, recycling, reprocessing, collection, transport, treatment, and disposal of all wastes, aimed at –

- (a) compliance with national legislation, policies and guidelines;
- (b) waste prevention and waste minimisation at source;
- (c) achieving the objectives of the waste management hierarchy set out in section 5;
- (d) managing the impact of waste on the receiving environment and remediating damaged environment;
- (e) safeguarding principles of public health, economics, engineering, conservation, aesthetics, and other environmental considerations; and
- (f) ensuring sustainable development;

**“land”** means any land whatsoever, whether vacant, occupied or with buildings, structures or improvements thereon;

**“medical waste”** includes –

- (a) any waste, whether infected or not, resulting from a medical, surgical, veterinary or laboratory procedure on humans or animals, such as blood, body fluids, tissue, organs, body parts, extracted teeth, corpses (excluding corpses intended for burial in terms of the Births and Deaths Registration Act, 1992 (Act 51 of 1992));
- (b) used medical equipment and other medical material which is capable or is reasonably likely to be capable of causing or spreading disease or causing or spreading infection, such as used surgical dressings, swabs, blood bags, laboratory waste, blood

collection tubes, colostomy- and catheter-bags; gloves, drip bags, administration lines and tongue depressers;

- (c) contaminated and uncontaminated sharps, including clinical items which can cause a cut or puncture or injection, such as needles, syringes, blades and microscope slides;
- (d) pharmaceutical products which have become outdated or contaminated or have been stored improperly or are no longer required, such as human and animal vaccines, medicines and drugs;
- (e) genotoxic chemical waste and radio isotopes from experimental or diagnostic work or any other source.

**“municipal area”** means the area falling within Council’s jurisdiction and controlled by Council;

**“municipal service”** means the service provided by Council, subject to any conditions or limitations which Council may impose from time to time, relating to the collection and disposal of -

- (a) domestic waste; and
- (b) any other waste which Council may determine from time to time

but does not include builder’s waste, industrial waste, hazardous waste, special industrial waste and medical waste;

**“occupier”** means any person who –

- (a) actually occupies or uses any premises without regard to the title under which he or she occupies;
- (b) is legally entitled to occupy or use any premises; or
- (c) controls or manages any premises, and includes the agent or representative of any such person when he or she is absent or his or her whereabouts are unknown;

**“office”** means an establishment, building, location or venue, excluding a shop, either separately or forming part of a building complex, the function of which is the transaction of administrative, business, civic or professional services where the handling of goods, wares or merchandise, in limited quantities, is incidental to the primary occupancy or use;

**“owner”** includes –

- (a) any person in whom from time to time is vested the legal title to the premises;
- (b) any person receiving the rent or profit of any premises from any tenant, lodger or occupier thereof, or who would receive such rent or profits if such premises were

leased, whether for his or her own account or as agent for any other person entitled thereto;

- (c) in the case where the person in whom the legal title to premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (d) in the case of premises for which a registered long lease of 10 years or longer has been entered into, the lessee thereof;
- (e) in relation to –
  - (i) land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act 95 of 1986), the developer or the body corporate in respect of the common property, or
  - (ii) a section as defined in such Act, the person in whose name such section is registered under the sectional title deed, and includes the lawfully appointed agent of such a person;
- (f) in the case of any building complex the person exercising the management and control over such building complex.

**“person”** includes any natural person, company, close corporation, trust, association, partnership, organisation, club, organ of state and body of persons whether incorporated or not;

**“premises”** means any erf or other portion of land, whether vacant, occupied, developed or undeveloped, and includes any building or building complex thereon or any other structure used for the purposes of business, trade, industry, agriculture, residence, recreation, religion, education, welfare or any other purposes and the infrastructure in connection therewith;

**“policies”** includes any policy, plan, guideline or strategy adopted by Council from time to time in connection with any municipal service rendered or offered by Council;

**“pollution”** means any change in the environment caused by –

- (a) any waste, substance or matter; or
- (b) noise, odour, dust or heat, emitted from or caused by any activity, including the storage or treatment of any waste, substance or matter, building and construction, and the provision of any service, whether engaged in by any person or an organ of state

if that change has an adverse effect on public health or well-being or on the composition, resilience and productivity of a natural or managed ecosystem, or on material useful to people, or will have such an adverse effect in the future;

**“public place”** includes any public building, public road, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden, park or enclosed space, vested in Council or any other organ of state, and any road, place or thoroughfare however created which is in the undisturbed use of the public or which the public has the right to use or the right to access;

**“recovery”** means the process or act of recovering or diverting from waste any materials, products or by-products for the purposes of being reused, or collected, processed and used as a raw or other material in the manufacture of a new, recycled or any other product;

**“recycling”** means the process or act of subjecting used or recovered waste materials, products or by-products to a process or treatment of making them suitable for beneficial use and for other purposes, and includes any process or treatment by which waste materials are transformed into new products or base materials in such a manner that the original waste materials, products or by-products may lose their identity, and which may be used as raw materials for the production of other goods or materials, and “recycle” shall have a similar meaning;

**“recycling facility”** means a facility which receives any waste, materials, products or by-products for the purposes of recovery, reuse or recycling, and includes a buy-back centre;

**“residential premises”** means any erf or other portion of land, whether vacant, occupied, developed or undeveloped, and includes any building thereon or any other structure used for residential purposes, and the adjoining sidewalk or verge used in connection therewith;

**“reuse”** means the process or act of recovering waste materials intended for the same or different purposes without the alteration of physical and chemical characteristics;

**“shop”** means an establishment, building, location or venue, excluding an office, either separately or forming part of a building complex, in which, inter alia -

- (a) tangible personal property;
- (b) food or beverages; or
- (c) services

are sold, offered or provided;

**“source reduction”** means the process or act of reducing the nature, type, quality, quantity, volume or toxicity of any waste generated, and “reduce at source” shall have a similar meaning;

**“source separation”** means the process or act of sorting and separating, at the point of origin, different materials found in any waste in order to promote and facilitate recovery, reuse and recycling of materials and resources, and “separate at source” shall have a similar meaning;

**“special events”** means any festival, gathering or meeting organised or arranged for purposes of sport, religion, exhibition, trade, commerce, entertainment, music, industry or any other purposes;

**“special industrial waste”** means any waste consisting of a liquid, sludge or solid substance, resulting from any manufacturing process, industrial treatment or the pre-treatment for disposal purposes of any industrial or mining liquid waste, which in terms of any law, order or directive relating to drainage and plumbing may not be discharged into any drain or sewer;

**“storage”** means the temporary storage or containment of any waste for a period of less than 90 days after its generation and prior to its collection for recovery, reuse, recycling, treatment or disposal;

**“tariff”** means the tariff, charges, fees or any other monies payable to Council for the collection, removal and disposal of any waste as determined by Council from time to time;

**“trade waste”** means any waste generated on any premises other than residential premises used exclusively for residential purposes and purposes of recreation, religion, education and welfare, but excluding agricultural properties and small holdings, and does not include domestic waste, domestic special waste, garden waste, bulky waste, builder’s waste, industrial waste, hazardous waste, special industrial waste and medical waste;

**“transfer station”** means a permitted facility which –

- (a) receives and temporarily stores any waste, and which may include or house separate facilities on the same premises for the sorting, separation, recovery, reuse or recycling of waste;
- (b) transfers waste into any other container or receptacle, or into or onto any vehicle or any other means of transport prior to its final disposal;
- (c) unless permitted by any other authority, does not include the operations or premises of a waste contractor registered in terms of Chapter 5 of this By-law who receives, temporarily stores, sorts, separates, converts, treats, transfers, handles or otherwise

processes waste prior to its final disposal as an activity directly or indirectly related to his business; and

- (d) may include a drop-off centre;

**“user”** means any person utilising the municipal service, and includes a waste generator and any other person liable for payment of the municipal service regardless of whether or not that other person generated the waste;

**“vehicle”** means any conveyance or device which can be used for the transportation of persons or any substances or matter on land, irrespective of whether such conveyance is self-propelled or not;

**“waste”** means any substance or matter whether solid, liquid or any combination thereof, irrespective of whether it or any constituents thereof may have value or other use, and includes –

- (a) any undesirable, rejected, abandoned or superfluous matter, material, residue of any process or activity, product, by-product;
- (b) any matter which is deemed useless and unwanted;
- (c) any matter which has been discarded, abandoned, accumulated or stored for the purposes of discarding, abandoning, processing, recovery, reuse, recycling or extracting a usable product from such matter; or
- (d) products that may contain or generate a gaseous component

which may originate from residential, gardening, business, commercial, trade, industrial, educational, agricultural, medical, building and demolition activities, and any other activities, and further includes industrial waste, hazardous waste, special industrial waste and medical waste;

**“waste contractor”** means any person, excluding Council, registered in terms of Chapter 5 of this By-law who collects, stores, transports, deposits, disposes, treats, handles or cleans up any waste generated by any other person, but does not include any person who -

- (a) collects, deposits or disposes any garden waste;
- (b) subject to the provisions of this By-law collects, deposits or disposes any waste for the purposes of reuse, recovery or recycling;
- (c) is exempted by Council from registering as waste contractor;

**“waste disposal site”** means any facility or site which receives waste for treatment or disposal, and which is operated in terms of a permit obtained in terms of the Environment Conservation Act, 1989 (Act 73 of 1989), or any other authorisation, or if such a facility is an incinerator, subject to registration or such permission as is required by any other applicable law;

“**waste generator**” means any person whose activities produce any waste and, if that person is not known the person who is in possession of waste and/or control of waste;

“**waste information system**” means the waste information system established in terms of section 9;

“**waste inspector**” means any official appointed and authorised by Council in terms of Chapter 6 to administer, implement and enforce the provisions of this By-law and any other waste management related by-laws promulgated by Council;

“**waste management hierarchy**” means the waste management hierarchy set out in section 5;

## **CHAPTER 2 – POWERS AND RESPONSIBILITIES**

### **Part 1 – Municipal service**

#### **2. Provision of municipal service**

(1) In determining the manner in which the municipal service is rendered, and having regard to the principle of equity and the provisions of this By-law and any other applicable law, Council may -

- (a) develop different waste management policies from time to time;
- (b) differentiate between different categories of users and waste generators;
- (c) differentiate between different geographical areas;
- (d) provide, prescribe, arrange or encourage different levels, means and utilisation of the municipal service for different users or waste generators or categories of users and waste generators, or different geographical areas;
- (e) determine the frequency with which the municipal service is rendered;
- (f) prescribe the maximum amount or volume of any waste that will be collected by Council from any premises without the provision of an additional service or payment of an additional prescribed tariff or charge;

- (g) prescribe the manner and place in which any waste must be stored, contained, handled, collected, treated, deposited, disposed or otherwise dealt with;
- (h) prescribe the manner and place in which any waste must be prevented, minimised, reduced, reused, recovered or recycled;
- (i) prescribe the manner in which any waste must be prevented, minimised, reduced or separated at source;
- (j) prescribe which waste will be collected and disposed by Council;
- (k) determine or direct which waste is unsuitable for collection by Council and the process or manner in which such waste should be disposed by the user or waste generator;
- (l) implement any particular component of the waste management hierarchy set out in section 5 for certain categories of users or waste generators or in different geographical areas;
- (m) determine or direct which waste should be separated by users or waste generators for the purposes of reuse, recovery and recycling, and the condition for its separation, storage, or collection.

*[Rationale behind this section: the list, which is of course not exhaustive, broadly indicates what powers Council has when rendering the municipal service, or deciding on its scope and areas of application. The ability to provide different means and levels of service (incl waste management provisions, waste minimisation, recycling etc) is integral to the IWMP and as such should be identified in the by-law as well.]*

*Without repeating the various provisions it is also based on the Municipal Systems Act (ch8); s 30 of National IWM Bill;*

(2)(a) Subject to the provisions of this By-law and the provisions of any other applicable law Council may -

- (i) enter into an agreement with any person for the provision of the municipal service or any aspect thereof on Council's behalf and subject to any conditions or limitations Council may impose; or

- (ii) permit users or waste generators to enter into alternative arrangements with any waste contractor registered in terms of Chapter 5 of this By-law, or with any other person as regulated in terms of this By-law, for the handling, treatment, collection and disposal of any waste normally forming part of the municipal service, but subject to any conditions or limitations Council may impose: Provided that Council may request written or other proof of such alternative arrangements, including written or other proof of the handling, treatment, collection and disposal of any waste.

*[Rationale behind this subsection: based on provisions of Municipal Systems Act (ch8); s 30 of National IWM Bill; general objectives and principles of this By-law; power/authority of Council to outsource service (subject to Municipal Systems Act), esp to waste contractors; power/authority of Council to make use of local community/NGOs in carrying out aspects of service; allow users to appoint waste contractors subject to Council's control]*

### 3. Tariff

*[Rationale behind this section: based on provisions of Municipal Systems Act (ch8); s 30 of National IWM Bill; general objectives and principles of this By-law; power/authority of Council to recognise/encourage/reward waste minimisation, recycling etc initiatives]*

(1) Subject to the provisions of this By-law and any other applicable law Council must adopt and implement a tariff policy for the rendering of the municipal service and which may reflect the waste management hierarchy set out in section 5, the objectives and principles of integrated waste management and the encouragement of other appropriate environmental objectives.

(2) Subject to the principle of equity and the provisions of this By-law and any other applicable law the tariff policy may -

- (a) differentiate between different -
  - (i) categories of users and waste generators;
  - (ii) geographical areas;
  - (iii) levels, means, frequencies and utilisation of the municipal service;
- (b) favourably treat users or waste generators or categories of users or waste generators who in Council's opinion can prove that they have successfully and satisfactorily implemented any particular component of the waste management

hierarchy out in section 5 or any possible integrated waste management guideline set out in section 7.

(3)(a) Subject to the provisions of this By-law and any other applicable law all users of the municipal service and waste generators utilising the municipal service must pay the prescribed tariff determined by Council from time to time.

(b) Payments must be made on or before the date on which they become due and payable.

(c) The fact that an account did not reach the user or waste generator does not exempt such user or waste generator from making payment on or before the due date.

(d) Should the correctness of an account be disputed, payment thereof shall not be postponed until after the due date pending the investigation and resolution of such dispute.

(e) Should any user or waste generator fail to pay any amount which is payable in terms of this By-law after such amount is due and payable, Council may without impairment of any other available legal remedy -

- (i) suspend the municipal service to such user or waste generator until such time as all outstanding amounts have been paid in full;
- (ii) take all legal steps necessary to recover such outstanding amounts; and
- (iii) recover any costs or expenditure, including legal costs, incurred for the recovery of such outstanding amounts from such user or waste generator.

#### **4. Building development contribution**

(1) Nothing in this By-law shall prevent Council from determining and imposing from time to time a contribution for the provision or expansion of the municipal service, including collection and disposal costs incurred or to be incurred by Council, in respect of any new building development or the extension of any existing building development, and where such existing building development did not previously receive a municipal service identical or similar to the municipal service required or to be required by the extension of any such existing building development.

(2) The contribution shall be payable by the owner, and in this regard the provisions of section 3(3) shall be applicable mutatis mutandis.

(3) Council may determine and impose a reduced contribution where -

- (a) the owner; or
- (b) in the case of any building complex, the person exercising the management and control over such building complex

in Council's opinion can prove that any particular component of the waste management hierarchy out in section 5, or any possible integrated waste management guideline set out in section 7, has been successfully and satisfactorily implemented or will successfully and satisfactorily be implemented and maintained.

*[Rationale behind this subsection: based on provisions of Municipal Systems Act (ch8); s 30 of National IWM Bill; general objectives and principles of this By-law; give support to Council's policy of Minimised Service; power/authority of Council to recognise/encourage/reward waste minimisation, recycling etc initiatives]*

## **Part 2 – Waste management**

### **5. Waste management hierarchy**

(1) For the purposes of this By-law the waste management hierarchy will be as follows and in the following order of priority –

- (a) prevention, minimisation and reduction;
- (b) reuse;
- (c) recovery and recycling; and
- (d) treatment and disposal.

(2) Any person, including Council, must take into account and apply the waste management hierarchy set out in subsection (1).

*[Rationale behind this section: the hierarchy follows that imposed by the White Paper, NWMS and the National IWM Bill (the latter makes it an obligation for local authorities to draft by-law and policies which give effect to and apply the hierarchy.)]*

## **6. Implementation of waste management hierarchy**

(1) In order to implement, apply and achieve the objectives of the waste management hierarchy set out in section 5 Council may, in addition and subject to the provisions set out in sections 2 to 4 identify and determine which -

- (a) categories of users and waste generators; and
- (b) geographical areas

must or could implement and apply any component of the waste management hierarchy set out in section 5.

(2) In the event of Council acting in terms of subsection (1) Council may -

- (a) issue any order or directive;
- (b) develop and implement any policy from time to time;
- (c) develop and implement integrated waste management guidelines or recommendations from time to time; and
- (d) adopt and implement different tariff policies or financial measures

in relation to different categories of users and waste generators and/or geographical areas identified and determined accordingly, in order to achieve the objectives of the waste management hierarchy set out in section 5.

(3) In the event of Council issuing any order or directive in terms of subsection (2) the categories of users and waste generators and/or geographical areas identified and determined accordingly shall be obliged to follow all provisions of such order or directive.

*[Rationale behind this section: allows Council to differentiate between different users, generators, groups, areas etc. The Municipal Systems Act also allows this. It will give Council the power to*

*implement different components of the waste management hierarchy, or to eg start pilot projects in any area.]*

## **7. Integrated waste management guidelines**

Without derogating from any other provisions of this By-law Council may develop and implement integrated waste management guidelines from time to time in relation to different categories of users and waste generators, including, but not limited to -

- (a) the building and construction industry;
- (b) building complexes;
- (c) special events;
- (d) the leisure, accommodation and hospitality industry, restaurants, food outlets, bars and pubs; and
- (e) the entertainment industry

*[Rationale behind this section: Council can draft IWM guidelines for any sector/industry it identifies. This idea was taken from Melbourne's Wastewise program, and according to information supplied by their Council to me it seems to be working perfectly. Problem sectors/industries can be identified and targeted.]*

*Incidentally their Wastewise program is not as "old" as Cape Town's and it does appear as if they copied some of "our" idea, including the name? Be that as it may they have some good ideas.]*

## **8. Waste and integrated resource management audits**

(1) Without derogating from any other provisions of this By-law but subject to any other applicable law Council may require any user or waste generator to conduct a waste and/or integrated resource management audit at the expense of such user or waste generator, and which audit must be performed by an independent person appointed by the user or waste generator.

(2) For the purposes of this section "waste" may, if Council so directs, include the consumption or utilisation of water, electricity, raw materials, and any other product or material determined by Council.

(3) Upon Council's request the user or waste generator referred to in subsection (1) shall be obliged to furnish a copy of the audit to Council.

(4) The audit shall be treated by Council in a confidential manner and may not be divulged or disclosed to any other party unless so ordered by a court of law or where this may be required in terms of any other applicable law: Provided that the user or waste generator may consent to the audit being divulged or disclosed to any other party.

*[Rationale behind this section: it ties in with the general objectives and principles of the IWM hierarchy, and also to a degree with the IWM guidelines Council could draft its section 7.]*

*The idea was used in Seattle with extremely great success where certain industries/companies were either forced or encouraged to perform audits, and the findings then led these industries/companies to make internal changes to cut down their waste produced (which included water, electricity, chemicals, other materials), which in turn often led to substantial financial savings for companies. In addition it has a direct benefit for the local authority as less pressure is exerted on infrastructure and capital (sewage works, power plants, waste disposal operations, and airspace on landfill sites. Naturally there are also significant environmental benefits since pollution is reduced as less waste (in the broad sense of the word) is produced.*

*Waste audits (in the broad sense of the word) were already used in Cape Town for the various waste minimisation clubs.]*

### **Part 3 – Waste Information System**

*[Rationale behind this Part: White Paper, NMWS, National IWM Bill; general objectives and principles of this By-law; duty that will soon rest on local authorities to compile their own waste information systems, and which will feed into a national waste information system. Compiling a waste information system will in any case probably form part of the Municipal Waste Plan which local authorities must implement in terms of the National IWM Bill. It will also assist Council in formulating future IWMPs and waste management programs.]*

*It should be mentioned that both the Johannesburg as well as Umzimkhulu by-laws have very similar provisions as set out in Part 3 of this draft by-law.]*

#### **9. Establishment of a waste information system**

(1) Where required in terms of any other applicable law Council must establish and maintain a waste information system which records the manner in which waste is managed within the municipal area.

(2) The waste information system may include any information relating to or connected with the management of waste within the municipal area.

#### **10. Purpose of the waste information system**

The purpose of the waste information system referred to in section 9 is for Council to record any waste management information or to furnish any waste management information to provincial or national authorities where this may be required in terms of any other applicable law.

#### **11. Provision of information**

(1) Council may, subject to the provisions of any other applicable law, require any waste generator, waste contractor, or any person involved in or associated with the provision of the municipal service or any other similar service, within the municipal area to furnish information to Council which may reasonably be required for the waste information system, and which may concern-

- (a) significant sources of waste generation and the identification of the generators of waste;
- (b) quantities, classes and types of any waste generated and disposed;
- (c) management of waste by waste generators and waste contractors;
- (d) prevention, minimisation, reduction, reuse, recovery, recycling, handling, treatment and disposal of waste;
- (e) any waste disposal site, materials recovery facility, drop-off centre, composting facility, recycling facility and buy-back centre, irrespective of whether it is owned, operated or controlled by Council or any other person;
- (f) population and development profiles;
- (g) reports on progress in achieving waste management targets;
- (h) markets for waste by class of waste or category; and
- (i) any other information required by any law.

(2) Council may determine the manner, time and frequency the information must be furnished.

(3) For the purposes of this Part Council may appoint or authorise any person to act on its behalf subject to any possible conditions or limitations Council may impose.

## **CHAPTER 3 – PROVISIONS RELATING TO THE STORAGE, COLLECTION AND DISPOSAL OF WASTE**

### **Part 1 – General provisions**

#### **12. Notice to Council**

*[Rationale for including person managing or controlling a building complex (ie body corporate or centre management) is that it is far easier for Council to contract with such person, or force such person to comply, than to deal with all the individual owners, occupiers, tenants etc]*

(1) The owner or occupier of any premises, and in the case of a building complex the owner or person managing or controlling such building complex, on or in which any waste is generated must within seven days of the commencement of such waste generation, notify Council in writing -

- (a) that such premises or building complex are being occupied; and
- (b) of the nature, composition, type, quality, quantity and volume of waste generated or expected to be generated on or in such premises or building complex.

(2) Any of the persons referred to in subsection (1) must advise Council in writing of any change in the –

- (a) nature of the use to which such premises or building complex are put; or
- (b) nature, mass or volume of waste generated on or in such premises or building complex which in any way affects or may affect the application of this By-law or the tariff for any municipal service rendered by Council in terms thereof.

(3) Whenever the owner or occupier of any premises, and in the case of a building complex the owner or person managing or controlling such building complex, changes, such new owner or occupier, and in the case of a building complex the new owner or person managing or controlling

such building complex, must advise Council in writing within seven days of such change, and must furnish Council with any details Council may require.

### **13. Collection and disposal of waste by Council**

(1) Subject to the provisions of this By-law and any policy, conditions or limitations Council may impose from time to time, and provided the owner or occupier of the premises has paid any applicable compulsory municipal service tariff or charge, Council may -

- (a) collect and dispose all domestic waste generated on or in any premises;
- (b) collect and dispose -
  - (i) garden, bulky and domestic special waste;
  - (ii) trade waste; and
  - (iii) any other waste.

(2) (a) No person other than Council or a person authorised by Council to act on its behalf shall collect and dispose domestic waste.

(b) Nothing contained in paragraph (a) shall, subject to the provisions of this By-law and any other applicable law, prevent any person from -

- (i) collecting; or
- (ii) depositing or disposing

any waste for the purposes of reuse, recovery, recycling or composting, or in pursuance of any order, directive, policy or guideline made by Council, provided such waste is collected from or deposited or disposed on the premises with the prior permission of the owner or occupier.

### **14. Provision of bins and bags**

*[Rationale for including bags: allows Council to either hand out or prescribe use of bags for certain areas (eg informal areas), or for programs like the Yellow Bag, see also eg 4.3.2.2 of Council Policy]*

(1) Council may -

- (a) provide one or more bins, either at no cost or at a cost to be determined by Council from time to time, for any premises;
- (b) stipulate or approve any other bin which an owner or occupier of any premises may provide and utilise at such owner's or occupier's own cost, and where Council has not provided a bin; and
- (c) stipulate or approve any other bin in which any specific waste must be deposited or stored.

(2) Council may -

- (a) provide one or more bags, either at no cost or at a cost to be determined by Council from time to time, for any premises;
- (b) stipulate or approve any other bag which an owner or occupier of any premises may provide and utilise at such owner's or occupier's own cost;
- (c) stipulate or approve any bag for the purposes of depositing, storing or disposing of any waste.

(3) Where Council is of the opinion that more than one bin is needed for any premises Council may provide such additional number of bins as it deems necessary, or order the owner or occupier of such premises to provide at own cost any bin stipulated or approved in terms of subsection (1).

(4) Any person may apply in writing for the provision of any number of additional bins or bags for any premises.

(5) Where Council has provided a bin such bin shall not be removed from the premises for which it has been provided, except for the purposes of the municipal service, and the owner or occupier of such premises shall take all reasonable steps to prevent the loss of or damage to such bin.

(6) Where in Council's opinion any bin referred to in subsection (1) on any premises is damaged, broken or generally unfit for the purposes of storing, depositing or disposing any waste, Council may

–

- (a) provide a new bin, either at no cost or at a cost to be determined by Council from time to time, to the owner or occupier of such premises; or

- (b) where the owner or occupier of such premises has provided a bin referred to in subsections (1)(b) and (c), order or direct such owner or occupier to provide at own cost a new bin.

(7) Where Council provides more than one bin for any premises Council may impose a tariff or charge to be determined by Council from time to time for the use of such additional bin or bins, and the additional municipal service rendered.

(8) (a) Where Council has provided a bin or bag for any premises in terms of this section such bin or bag shall remain the property of Council, and the provisions of section 15 shall apply.

(b) A bin or bag provided by Council may only be used for the purposes of storing, depositing or disposing waste.

(c) The person to whom a bin has been supplied in terms of this section may be liable to Council for any loss of or damage to such bin.

(d) Where an owner or occupier of any premises has provided a bin or bag referred to in subsections (1)(b) and (c) or subsections (2)(b) and (c) Council will not be liable for any loss of or damage to such bin or bag.

(9) Nothing contained in this Chapter shall prevent Council from imposing any additional requirements relating to the storage, depositing and disposal of any waste in terms of any policy which Council may determine from time to time.

## **15. Utilisation of bins and bags**

*[Rationale for including bags: allows Council to either hand out or prescribe use of bags for certain areas (eg informal areas), or for programs like the Yellow Bag, see also eg 4.3.2.2 of Council Policy]*

(1) (a) Only domestic waste and any other waste authorised by Council from time to time may be deposited or stored in a bin or bag

- (i) provided by Council; or
- (ii) stipulated or approved by Council in terms of sections 14(1)(b) and (c) and 14(2)(b) and (c) where Council performs the municipal service.

(b) No hot ash, broken glass, sharp or dangerous objects, sand, stones, rocks, builders' rubble or any matter or material which may cause injury to any person, including any Council official or any person appointed by Council to act on its behalf, while carrying out his or her duties in terms of this By-law, or which may cause damage to a bin or bag, or compaction equipment, may be deposited or stored in a bin or bag.

(c) No material, including any liquid, which by reason of its mass or other characteristics, causes the handling or carrying of a bin or bag to be unreasonably difficult for a Council official or any person appointed by Council to act on its behalf, may be deposited or stored in a bin or bag.

(d) Council shall only remove such waste that complies with paragraphs (a) to (c).

(2) Kitchen and food waste, and any other similar waste likely to decompose and cause a nuisance or unhygienic condition must be sealed in a water tight container or bag before being deposited into such bin or bag.

(3) Any person to whom Council has provided a bin must at all times –

- (a) maintain and keep such bin in good order and repair and in a clean and hygienic condition;
- (b) keep such bin securely closed or covered except when waste is being deposited therein or removed therefrom; and
- (c) not fill such bin to such an extent that the lid or cover cannot close properly.

## **16. Putting out of waste**

(1) Council may prescribe or alter the days, times and frequencies for the rendering of the municipal service.

(2) Every owner or occupier of premises must put out the bin or bag on the prescribed date or day and at the prescribed time in the place indicated by Council, provided that Council shall not be obliged to collect any waste unless the bin or bag has been put in the place indicated by Council.

(3) Missed collections because of late placement may be accommodated by a special municipal service for which a separate tariff or charge may be imposed.

(4) A bin or bag may only be put out on the prescribed date and at the prescribed time.

(5) Every owner or occupier of premises must ensure that the contents of the bin or bag are secured against damage and that scavenging by animals does not occur.

(6) Every owner or occupier of premises must return the bin to the premises not later than nightfall of the same day.

(7) Every owner or occupier of premises must ensure that the pavement, verge or adjoining land is swept or kept free of any waste that has not been collected by Council or any person appointed by Council to act on its behalf.

(8) Unless the provisions of this By-law determine otherwise or subject to any conditions or limitations Council may impose from time to time no waste which is not collected in terms of the municipal service may be put out.

#### **17. Provision and securing of waste storage place or area**

(1) Every owner or occupier of premises, and in the case of a building complex the owner or person managing or controlling such building complex, must provide a secure, hygienic, adequate and readily accessible waste storage place or area on the premises.

(2) Every owner or occupier of premises, and in the case of a building complex the owner or person managing or controlling such building complex, must at all times ensure that no unauthorised person has access to any waste storage place or area.

(3) Council may order any owner or occupier of premises, and in the case of a building complex the owner or person managing or controlling such building complex, at own expense to enclose or otherwise secure any waste storage place or area, or to take any other measures which Council may deem necessary.

(4) The waste storage place or area must be constructed in accordance with the requirements of any applicable legislation relating to buildings.

(5) Notwithstanding the provisions of subsection (1)-

- (a) in the case of any building 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 Council being unable to collect any waste from the waste storage place or area referred to in terms of subsection (1),

Council may indicate any other place on, in or outside the premises where a bin or bag must be put out and in accordance with the provisions of section 16.

#### **18. Sorting over of waste**

(1) No person, except a Council official, any person appointed by Council to act on its behalf, or a waste contractor registered in terms of Chapter 5, may sort over or disturb the contents of any bin or bag -

- (a) which has been put out for purposes of collection;
- (b) stored or kept on or in any premises; or
- (c) placed in any street or public place for the purposes of collection

(2) Notwithstanding the provisions of subsection (1), but subject to the provisions of this By-law and any other applicable law, the owner or occupier of premises, and in the case of a building complex the owner or person managing or controlling such building complex, on or in which waste is generated, may allow any other person to sort over or disturb the contents of any bin or bag for the purposes of reuse, recovery or recycling, provided such other person has obtained the prior permission of the owner or occupier of such premises, and in the case of a building complex the owner or person managing or controlling such building complex.

*[Rationale behind sub-s(2): allows activities such as on-site recycling or waste separation by third parties authorised to do so by the owner/occupier of the premises. If no permission has been obtained by the third party then the sorting over is illegal. The exclusion of the proviso could otherwise potentially make any existing recycling etc activities illegal.]*

#### **19. Access for Council**

For purposes of the municipal service every owner or occupier of premises, and in the case of a building complex the owner or person managing or controlling such building complex, must ensure proper and convenient access and exit for any Council official or vehicle, or any person appointed by Council to act on its behalf, including such person's vehicle, to the -

- (a) place indicated by Council in terms of section 16; or

- (b) waste storage place or area referred to in sections 17(1) for purposes of rendering the municipal service.

**20. Accumulation and storage of waste**

(1) No person may accumulate or store any waste or cause any waste to be accumulated or stored on or in any premises for more than 90 consecutive days, or in excess of any other maximum period stipulated by Council, unless that person has obtained a prior permit for a waste disposal site in terms of the Environment Conservation Act, 1989 (Act 73 of 1989) or any other authorisation in respect of the premises or land concerned.

(2) Subject to the provisions of this By-law no person may accumulate, store, deposit or put out or cause the accumulation, storage, depositing or putting out of any waste on or in any premises or land except in -

- (a) a place and on a prescribed day and at the time indicated by Council in terms of section 16;
- (b) a waste storage place or area or other place referred to in section 17(1);
- (c) any other structure or area approved by Council; or
- (d) any other place Council may set aside or approve for such purposes.

(3)(a) If any waste is –

- (i) not accumulated, stored, deposited or put out in terms of subsection (2) or any other provision of this By-law; or
- (ii) is accumulated or stored in excess of any period referred to in subsection (1)

Council may order any person who accumulates, stores, deposits or puts out or causes the accumulation, storage, depositing or putting out of such waste to dispose such waste within a time stipulated by Council.

(b) Failing such disposal within such stipulated time Council may itself, or through any person appointed by Council to act on its behalf, collect and dispose such waste at the expense of the person who accumulates, stores, deposits or puts out such waste or causes the accumulation,

storage, depositing or putting out of such waste, in which event the provisions of section 53 shall apply mutatis mutandis.

## **21. Burning of waste**

Subject to the provisions of this By-law and any other applicable law no person may -

- (a) burn any waste or cause any waste to be burned on or in any premises or on any land for the purposes of disposing of such waste unless prior written authorisation has been obtained from Council;
- (b) incinerate any waste or cause any waste to be incinerated on or in any premises or on any land except in an incinerator or other permitted equipment previously approved and registered in terms of the Atmospheric Pollution Prevention Act, 1965 (Act 45 of 1965) or any other applicable law, and subject to any applicable terms and conditions contained in any possible registration, permit, licence or other authorisation.

## **22. Transportation of waste**

Subject to the provisions of this By-law and any other applicable law no person may -

- (a) operate any vehicle for the conveyance of any waste upon any public road unless the vehicle has a body of adequate size and construction for the type of waste being transported;
- (b) fail to maintain any vehicle used for the conveyance of any waste in a clean, sanitary and roadworthy condition at all times;
- (c) fail to cover any loose or light waste on any open vehicle with a tarpaulin, net or other suitable cover; and
- (d) cause or permit any waste being transported to leak, blow, fall or become detached from any vehicle transporting it.

## Part 2 – Garden, bulky and domestic special waste

*[Please refer to the definition of “domestic special waste” in section 1. I have used this terminology instead of “household hazardous waste” so as not to create confusion, and also because general definitions (legal and policy) seem to prefer “domestic” instead to “household”.*

*The intention behind excluding domestic special waste from ‘normal’ domestic waste is an attempt/possibility to deal more effectively with it. It presents a fairly substantial problem and is currently not regulated. Having said that, it is conceded that it might be difficult in trying to regulate disposal of such waste.]*

### **23. Storage, collection and disposal of garden, bulky and domestic special waste**

(1)(a) The collection and disposal of garden, bulky and domestic special waste by Council shall only occur subject to any policy, conditions or limitations Council may impose from time to time: Provided that Council shall not be obliged to collect and dispose garden, bulky and domestic special waste.

(2) Subject to subsection (1) and the provisions of this By-law, the owner or occupier of any premises, and in the case of a building complex the owner or person managing or controlling such building complex, on or in which garden, bulky and domestic special waste is generated may apply to Council for the collection and disposal of such garden, bulky and domestic special waste: Provided that Council may impose a tariff or charge to be determined by Council from time to time for the additional municipal service rendered.

(3)(a) Council may, of its own accord or at the request of any person, provide a bin or any other container to any premises for the purposes of collection and disposal of garden, bulky and domestic special waste: Provided that Council may impose a tariff or charge to be determined by Council from time to time for the use of such bin or other container and the additional municipal service rendered.

(b) The provisions of Part 1 of this Chapter shall be applicable mutatis mutandis to such bin or other container provided by Council in terms of paragraph (a).

(4)(a) The owner or occupier of any premises, and in the case of a building complex the owner or person managing or controlling such building complex, on or in which garden, bulky and domestic special waste is generated must ensure that such garden, bulky and domestic special waste is collected and disposed within a reasonable period after its generation and in terms of the provisions of this By-law.

(b) Until such time as such garden, bulky and domestic special waste is collected and disposed -

- (i) it must be deposited or stored on or in the premises and in a suitable skip, container, bin or bag which is kept within a waste storage place or area referred to in section 17; and
- (ii) no inconvenience, nuisance, public health risk or pollution may be caused by such garden, bulky and domestic special waste.

(c) The provisions of section 20 shall be applicable mutatis mutandis to the accumulation and storage of garden, bulky and domestic special waste.

(5) Despite subsection (4) the owner or occupier of any premises, and in the case of a building complex the owner or person managing or controlling such building complex, on or in which garden waste is generated, may compost such garden waste on the premises, provided such composting does not cause a nuisance, public health or pollution risk.

(6) Any person may collect, deposit and dispose garden, bulky and domestic special waste provided that –

- (a) it is deposited or disposed at a place set aside or approved by Council for such purposes;
- (b) Council may request written or other proof of such collection, depositing or disposal.

*[Rationale behind this subsection: to allow disposal of garden, bulky and domestic special waste by residents or generators, but still subject to some control. It also allows the collection of waste for purposes of reuse, recycling etc]*

(7) The collecting, depositing or disposing of garden, bulky and domestic special waste may only take place with the prior permission of the owner or occupier of the premises.

*[Rationale behind this subsection: allow the collecting, depositing and disposal of the above waste types where prior permission was obtained from the owner/occupier. If this is not in place then the collecting, depositing and disposal is unlawful. This will prevent unauthorised people eg coming onto premises to remove bulky waste (such as scrap metal).]*

### **Part 3 – Trade waste**

#### **24. Collection of trade waste**

(1) Trade waste may only be collected and disposed by

- (a) Council; or
- (b) any waste contractor registered in terms of Chapter 5, and subject to any conditions or limitations Council may impose from time to time.

(2) Subject to subsection (1) and the provisions of this By-law, the owner or occupier of any premises, and in the case of a building complex the owner or person managing or controlling such building complex, on or in which trade waste is generated may apply to Council for the collection and disposal of such trade waste.

(3) Any-

- (a) generator of trade waste, and
- (b) owner or occupier of any premises, and in the case of a building complex the owner or person managing or controlling such building complex, on or in which trade waste is generated

must enter into a written agreement for the collection and disposal of trade waste with Council or any waste contractor registered in terms of Chapter 5.

*[Rationale behind this subsection: force the abovementioned persons to enter into a written agreement for the collection and disposal of trade waste. This should help prevent unlawful disposal and illegal dumping of trade waste.]*

## **25. Trade waste information**

(1) Council may require –

- (a) any generator of trade waste, and
- (b) any owner or occupier of any premises, and in the case of a building complex the owner or person managing or controlling such building complex, on or in which trade waste is generated, and where any of the foregoing is not the generator of trade waste

to furnish Council with -

- (i) particulars of the nature, composition, type, quality, quantity and volume of trade waste generated or expected to be generated;
- (ii) a copy of the written agreement referred to in section 24(3);
- (iii) written or other proof of the manner in which and place where such trade waste was or will be collected, deposited, stored or disposed; and
- (iv) particulars of measures or steps taken to satisfy any possible requirements imposed by Council in terms of section 26(4).

*[Rationale behind this subsection: to try to get a better understanding and control of trade waste, and its disposal. It was advised by the City that this is currently a problem.*

*Also by forcing other people, besides the waste generator (ie centre management, or owners/landlords of premises who are not using the premises) to divulge such information there should hopefully be a better control over disposal of trade waste.]*

## **26. Storage and disposal of trade waste**

(1)(a) The generator of trade waste, owner or occupier of any premises, and in the case of a building complex the owner or person managing or controlling such building complex, on or in which trade waste is generated must ensure that such trade waste is collected and disposed within a reasonable period after its generation and in terms of the provisions of this By-law.

(b) Until such time as such trade waste is collected and disposed -

- (i) it must be deposited or stored on or in the premises and in a suitable skip, container, bin or bag which is kept within a waste storage place or area referred to in section 17;
- (ii) no inconvenience, nuisance, public health risk or pollution may be caused by such trade waste.

(c) Informal traders or businesses who generate trade waste shall ensure that such trade waste is collected from the premises on or in which it is generated and that it is deposited or stored in a skip, container, bin or bag provided or approved by Council.

(d) The provisions of section 20 shall be applicable mutatis mutandis to the accumulation and storage of trade waste.

(2)(a) Council may, of its own accord or at the request of any person, provide a bin or any other container to any premises for the purposes of collection and disposal of trade waste: Provided that Council may impose a tariff or charge to be determined by Council from time to time for the use of such bin or other container and the additional municipal service rendered.

(b) The provisions of Part 1 of this Chapter shall be applicable mutatis mutandis to such bin or other container provided by Council in terms of paragraph (a).

(3)(a) Nothing contained in section 24(1) shall, subject to the provisions of this By-law and any other applicable law, prevent any person from collecting, depositing or disposing any trade waste for the purposes of reuse, recovery or recycling, or in pursuance of any order, directive, policy or guideline made by Council: Provided that Council may request written or other proof of such collection, depositing or disposal.

*[Rationale behind this subsection: allow reuse, recycling etc of trade waste, either voluntarily or because of an order etc from Council. By giving Council the power to request proof of collection, disposal and what was done with the trade waste still gives Council control over it.]*

(b) The collecting, depositing or disposing of trade waste in terms of subsection 3(a) may only take place with the prior permission of the generator, or owner or occupier of the premises, and in the case of a building complex the owner or person managing or controlling such building complex, on or in which trade waste is generated.

*[Rationale behind this subsection: allow the collecting, depositing and disposal of trade waste where prior permission was obtained. If this is not in place then the collecting, depositing and disposal is unlawful. This will prevent unauthorised people eg coming onto premises to remove or scavenge waste.]*

(4) Subject to the provisions of this By-law Council may -

- (a) issue any order or directive; or
- (b) develop and implement any policy or integrated waste management guideline referred to in section 7

in relation to trade waste in order to apply and achieve the objectives of the waste management hierarchy referred to in section 5.

## **Part 4 – Builder’s waste**

### **27. Collection of builder’s waste**

Unless determined otherwise builder’s waste will not be collected and disposed by Council.

### **28. Depositing and storage of builder’s waste**

(1) The generator of builder’s waste, owner or occupier of any premises, and in the case of a building complex the owner or person managing or controlling such building complex, on or in which builder’s waste is generated, must ensure that until such time as such builder’s waste is collected -

- (a) it is deposited or stored on or in the premises and in a suitable skip, container or bag or that is properly covered;
- (b) the premises do not become unsightly or cause a nuisance as a result of the accumulation of such builder’s waste;
- (c) that no builder’s waste is blown or washed from or otherwise leaves the premises, in which event it must be promptly retrieved or cleaned up; and
- (d) any structure ordered by Council necessary to contain or cover such builder’s waste is erected or constructed.

(2) Storage of builder’s waste, including any sand, stones or gravel, on or in any premises, irrespective of whether or not such builder’s waste, sand, stones or gravel is intended to be used for filling or similar purposes, may not be in excess of 90 consecutive days, or any other period determined by Council from time to time.

(3)(a) Despite the provisions of subsection (1)(a) Council may, upon receipt of a written application by any of the persons mentioned in subsection (1), permit in writing that the builder’s waste be deposited or stored outside the premises on or in which such builder’s waste is generated, in which event the provisions of subsection (1)(b) to (d) mutatis mutandis shall be applicable.

(b) Where any builder’s waste is deposited or stored outside such premises the owner or occupier of such premises, and in the case of a building complex the owner or person managing or controlling such building complex, must ensure that -

- (i) such builder's waste does not pose a danger, inconvenience or nuisance to any person or vehicle; and
- (ii) any skip or container is fitted with reflecting chevrons or reflectors clearly outlining the front and back of such skip or container.

### **29. Transport and disposal of builder's waste**

(1) The owner or occupier of any premises, and in the case of a building complex the owner or person managing or controlling such building complex, on or in which builder's waste is generated must ensure that such builder's waste is collected and disposed within a reasonable period after its generation and in terms of the provisions of this By-law.

(2) Builder's waste may only be disposed at a place set aside or approved by Council for such purposes: Provided that Council may in writing permit the disposal of such builder's waste at any other designated place for the purposes of land reclamation, filling or any other purpose, and subject to any conditions or limitations Council may impose in this regard.

(3) Council may request written or other proof of disposal of any builder's waste at a site referred to in subsection (2)(a).

(4) Builder's waste must at all times be covered properly and securely during its transport for disposal to ensure that no displacement may occur.

### **30. Building and construction industry integrated waste management guidelines**

In considering any building or development plan for any premises submitted to Council for approval, irrespective of whether such plan is in respect of any new or existing premises or building development, Council may require -

- (a) the owner or occupier of such premises, and in the case of a building complex the owner or person managing or controlling such building complex;
- (b) the builder, contractor, demolisher or developer; or
- (c) any subcontractor appointed by any of the persons referred to in paragraphs (a) and (b) -

to adopt and implement, prior to the commencement of any building, construction, repair, alteration, renovation or demolition work, any integrated waste management guidelines referred to in section 7, and to generally adopt and implement any other measure to achieve the objectives of the waste management hierarchy set out in section 5.

*[Rationale behind this section: it ties in with the IWM hierarchy, and any possible IWM guidelines in section 7. By having building IWM guidelines before building work starts, and forcing the builder, owner etc to apply/follow these from the outset will help to, firstly, minimise builder's waste, and, secondly, to have a better control over where the waste goes (ie to ensure proper disposal). This was taken from the Melbourne Wastewise program - see also comments under section 7.]*

## **Part 5 – Industrial waste**

### **31. Collection of industrial waste**

(1) Industrial waste may only be collected and disposed by a waste contractor registered in terms of Chapter 5, and subject to any conditions or limitations Council may impose from time to time.

(2) Unless determined otherwise industrial waste will not be collected and disposed by Council.

(3) Any-

- (a) generator of industrial waste; and
- (b) owner or occupier of any premises, and in the case of a building complex the owner or person managing or controlling such building complex, on or in which industrial waste is generated

must enter into a written agreement for the collection and disposal of industrial waste with any waste contractor registered in terms of Chapter 5.

*[Rationale behind this subsection: to try to get a better understanding and control of industrial waste, and its disposal. Also by forcing other people, besides the waste generator (ie centre management, or owners/landlords of premises who are not using the premises) to divulge such information there should hopefully be a better control over disposal of industrial waste.]*

### **32. Industrial waste information**

(1) Council may require –

- (a) any generator of industrial waste, and
- (b) any owner or occupier of any premises, and in the case of a building complex the owner or person managing or controlling such building complex, on or in which industrial waste is generated, and where any of the foregoing is not the generator of such industrial waste

to furnish Council with -

- (i) particulars of the nature, composition, type, quality, quantity and volume of industrial waste generated or expected to be generated;
- (ii) a copy of the written agreement referred to in section 31(3);
- (iii) written or other proof of the manner in which and place where such industrial waste was or will be collected, stored or disposed; and
- (iv) particulars of measures or steps taken to satisfy any possible requirements imposed by Council in terms of section 33(2).

### **33. Storage and disposal of industrial waste**

(1)(a) The generator of industrial waste, owner or occupier of any premises, and in the case of a building complex the owner or person managing or controlling such building complex, on or in which industrial waste is generated must ensure that such industrial waste is collected and disposed within a reasonable period after its generation and in terms of the provisions of this By-law. The provisions of section 20 shall be applicable mutatis mutandis to the accumulation and storage of industrial waste.

(b) Industrial waste may only be disposed at a place set aside or approved by Council for such purposes.

(b) Until such time as such industrial waste is collected and disposed -

- (i) it must be deposited or stored on or in the premises and in a suitable skip, container, tank, vessel, bin, bag or other receptacle which is kept within a waste storage place

or area referred to in section 17 or in any other structure or area approved by Council; and

- (ii) no inconvenience, nuisance, public health risk or pollution may be caused by such industrial waste.

(c) Council may -

- (i) stipulate or approve any skip, container, tank, vessel, bin, bag or any other receptacle; or
- (ii) order the construction or erection of any structure necessary

to store, contain or hold industrial waste.

(2) Subject to the provisions of this By-law Council may -

- (a) issue any order or directive; or
- (b) develop and implement any policy or integrated waste management guideline referred to in section 7

in relation to industrial waste in order to apply and achieve the objectives of the waste management hierarchy referred to in section 5.

(3)(a) Nothing contained in this Part shall, subject to the provisions of this By-law and any other applicable law, prevent any person from collecting, depositing or disposing any industrial waste for the purposes of reuse, recovery or recycling, or in pursuance of any order, directive, policy or guideline made by Council: Provided that Council may request written or other proof of such collection, depositing or disposal.

*[Rationale behind this subsection: it allows generators of industrial waste to reuse, recycle, or sell/swap their waste (eg ito Waste Exchange), or to ensure compliance where Council makes any orders regarding alternative disposal etc.] By giving Council the power to request proof of collection, disposal and what was done with the industrial waste still gives Council control over it.]*

(b) The collecting, depositing or disposing of industrial waste in terms of subsection (3)(a) may only take place with the prior permission of the generator, or owner or occupier of the premises, and in the case of a building complex the owner or person managing or controlling such building complex, on or in which industrial waste is generated.

*[Rationale behind this subsection: allow the collecting, depositing and disposal of industrial waste where prior permission was obtained. If this is not in place then the collecting, depositing and disposal is unlawful, and programs like eg. the City's Waste Exchange website could potentially be unlawful. The required permission will prevent unauthorised people eg coming onto premises to remove or scavenge waste.]*

## **Part 6 – Hazardous, Special Industrial and Medical Waste**

### **34. Notice to Council and provision of hazardous, special industrial and medical waste information**

(1) Unless Council determines otherwise -

- (a) any generator of hazardous, special industrial or medical waste; and
- (b) any owner or occupier of any premises, and in the case of a building complex the owner or person managing or controlling such building complex, on or in which hazardous, special industrial or medical waste is generated, and where any of the foregoing is not the generator of such hazardous, special industrial or medical waste

must notify Council in writing prior to the commencement of such waste generation.

(2) Any person obliged to notify Council in terms of subsection (1) must furnish Council with -

- (a) particulars of the nature, composition, type, quality, quantity and volume of hazardous, special industrial or medical waste generated or expected to be generated;
- (b) a copy of the written agreement referred to in section 36(1)(d) and (e);
- (c) written or other proof of the manner in which and place where such hazardous, special industrial or medical waste will be collected, stored or disposed;
- (d) the proposed duration of storage;

- (e) the particulars and identity of the waste contractor registered in terms of Chapter 5 who has collected and disposed or will collect and dispose such hazardous, special industrial or medical waste; and
- (f) particulars of measures or steps taken to satisfy any possible requirements imposed by Council in terms of section 37(6)

Provided that Council may also require that it be furnished with any of the foregoing particulars at any time thereafter, or at a frequency to be determined by Council.

(3) If so required by Council, the notification referred to in subsections (1) or (2) must be substantiated by an analysis of the composition of the waste concerned, certified by an appropriately qualified industrial chemist or otherwise appropriately qualified person.

(4) Any person obliged to notify Council in terms of subsections (1) and (2), must inform Council in writing of any change occurring with respect to the generation, nature, composition, type, quality, quantity, volume, manner in which and place where the hazardous, special industrial or medical waste will be disposed.

### **35. Storage of hazardous, special industrial and medical waste**

(1)(a) The generator of hazardous, special industrial or medical waste, owner or occupier of any premises, and in the case of a building complex the owner or person managing or controlling such building complex, on or in which hazardous, special industrial or medical waste is generated must ensure that until such time as such hazardous, special industrial or medical waste is collected and disposed -

- (i) it is deposited or stored on or in the premises in a suitable container, tank, vessel, bin or other receptacle which is kept within a waste storage place or area referred to in section 17 or in any other structure or area approved by Council; and
- (ii) no inconvenience, nuisance, public health risk or pollution is caused by such hazardous, special industrial and medical waste.

(b) Council may -

- (i) stipulate or approve any container, tank, vessel, bin or any other receptacle; or
- (ii) order the construction or erection of any structure necessary

to store, contain or hold hazardous, special industrial or medical waste.

(2) The provisions of section 20 shall be applicable mutatis mutandis to the accumulation and storage of hazardous, special industrial or medical waste.

### **36. Collection of hazardous, special industrial and medical waste**

(1)(a) Unless determined otherwise hazardous, special industrial or medical waste will not be collected and disposed by Council.

(b) Hazardous and special industrial waste may only be collected and disposed by a waste contractor registered in terms of Chapter 5, and subject to any conditions or limitations Council may impose from time to time.

(c) Medical waste may only be transported and disposed by-

- (i) the generator of such medical waste; or
- (ii) any waste contractor registered in terms of Chapter 5 and any other applicable law governing medical waste

and subject to any conditions or limitations Council may impose from time to time.

*[Rationale for differentiating between hazardous/special industrial waste and medical waste – see subsections (b) and (c) above – is because in terms of other legislation, like eg the City of CT's Environmental Health By-law medical waste may currently also be transported and disposed by generators of medical waste, subject to certain conditions. If we say that collection and disposal of medical waste will only be allowed through registered waste contractors then this will lead to conflicts with health legislation.]*

*[An additional section has been inserted below (s 38) to deal specifically with any other possible conflicts between separate medical waste legislation (national, provincial and local) and this By-law.]*

(d) The generator of hazardous and special industrial waste must enter into a written agreement for the collection and disposal of such hazardous and special industrial waste with any waste contractor registered in terms of Chapter 5.

*[Reason for not also dealing here with written agreements for medical waste is that because the City's Environmental Health By-law (in ss 23 ff) already covers the duties and obligations of medical*

*waste generators and transporters (ie contractors). It was therefore felt that no additional provisions should be inserted in the draft By-law so as not to create potential conflicts.]*

(2) Hazardous, special industrial and medical waste may only be transported in accordance with any conditions or limitations imposed by Council in respect of the type of vehicle, its markings, the way it is manufactured, safety procedures and hygiene and documentation regarding the origin, transport and disposal of such hazardous, special industrial and medical waste.

(3) Any person obliged to notify Council in terms of sections 34(1) must furnish Council, at such intervals as Council may stipulate, and in respect of each collection and disposal, with any or all of the particulars referred to in section 34(2).

### **37. Disposal of hazardous, special industrial and medical waste**

(1) Hazardous, special industrial and medical waste may only be disposed of –

- (a) at a waste disposal site authorised to accept such hazardous, special industrial and medical waste; or
- (b) in an incinerator or other previously permitted equipment approved and registered in terms of the Atmospheric Pollution Prevention Act, 1965 (Act 45 of 1965) or any other applicable law

and subject to any applicable terms and conditions contained in any possible registration, permit, licence or other authorisation.

(2) Without derogating from any other provisions of this By-law, if Council is of the opinion that special measures or steps need to be taken to –

- (a) render hazardous, special industrial and medical waste acceptable for disposal at a waste disposal site; or
- (b) avoid any potential nuisance, public health risk or pollution arising at such waste disposal site

Council may require any person obliged to notify it in terms of section 34(1) to take such measures or steps Council may determine necessary.

(3) In the event of any hazardous, special industrial or medical waste causing or suspecting to cause any nuisance, public health risk or pollution at such waste disposal site, including the land, water and air in the surrounding vicinity, Council may require any person obliged to notify it in terms of section 34(1) to take such measures or steps Council may determine necessary to avoid, minimise or rectify any such nuisance, public health risk or pollution.

(4) Hazardous and special industrial waste, and where applicable medical waste, may only be disposed on a Council site if Council has given its prior written permission for such disposal. In giving its prior written permission Council must have regard to -

- (a) the nature, composition, type, quality, quantity and volume of such hazardous and special industrial waste, and where applicable medical waste;
- (b) the suitability of the vehicle, equipment and container, tank, vessel, bin or any other receptacle to be used; and
- (c) the manner in which and place where such hazardous and special industrial waste, and where applicable medical waste, will be collected, stored or disposed.

(5)(a) Nothing contained in this Part shall, subject to the provisions of this By-law and any other applicable law, prevent any person from collecting, depositing or disposing any hazardous or special industrial waste for the purposes of reuse, recovery or recycling, or in pursuance of any order, directive, policy or guideline made by Council: Provided that Council may request written or other proof of such collection, depositing or disposal.

*[Rationale behind this subsection: it allows generators of hazardous and special industrial waste to reuse, recycle, or sell/swap their waste (eg its Waste Exchange), or to ensure compliance where Council makes any orders regarding alternative disposal etc.] By giving Council the power to request proof of collection, disposal and what was done with the industrial waste still gives Council control over it.]*

(b) The collecting, depositing or disposing of any hazardous or special industrial waste in terms of subsection (5)(a) may only take place with the prior permission of the generator, or owner or occupier of the premises, and in the case of a building complex the owner or person managing or controlling such building complex, on or in which hazardous or special industrial waste is generated.

*[Rationale behind this subsection: allow the collecting, depositing and disposal of industrial waste where prior permission was obtained. If this is not in place then the collecting, depositing and disposal is unlawful, and programs like eg. the City's Waste Exchange website could potentially be*

*unlawful. The required permission will prevent unauthorised people eg coming onto premises to remove to scavenge waste.]*

(6) Subject to the provisions of this By-law Council may -

- (a) issue any order or directive; or
- (b) develop and implement any policy or integrated waste management guideline referred to in section 6

in relation to hazardous, special industrial or medical waste in order to apply and achieve the objectives of the waste management hierarchy referred to in section 5.

### **38. Special provisions relating to medical waste**

In the event of a possible conflict between the provisions of this By-law and the provisions of any other law relating to the storage, handling, treatment, collection, transportation and disposal of medical waste the provisions of such other law shall prevail.

*[Rationale behind this section: there is separate legislation dealing with medical waste, either national, provincial or By-laws, and this By-law should therefore not clash with any of the foregoing.]*

## **CHAPTER 4 – PROVISIONS RELATING TO COUNCIL SITES AND WASTE DISPOSAL SITES**

*[This Chapter is based largely on the CMC Waste Management By-law (which should be repealed by this By-law)]*

### **39. Planning of waste disposal sites**

(1) Council may order and direct that any or certain waste be disposed of at particular Council sites, in which event it is prohibited for any person to dispose of such waste at any other place.

(2) The establishment of a new waste disposal site or the operation or extension of an existing waste disposal site shall not occur without permission of Council which permission may not be unreasonably withheld, but subject to any other applicable legislation.

#### **40. Provisions for waste disposal**

(1) Only waste generated within the municipal area shall be accepted for transfer or disposal at any Council site unless Council determines otherwise.

(2) Once waste has been removed for disposal from the premises on which it was generated, it must be disposed of at a waste disposal site or any other site or facility classified for such waste, unless otherwise provided for in this By-law.

(3) Council may set aside any premises or land, or any part of a Council site where only certain waste may be deposited or disposed.

#### **41. Conduct at Council sites**

(1) No person may enter any Council site for any purposes other than the disposal of waste and then only on such days and between such hours as Council may determine from time to time.

(2) In presenting waste for disposal at any Council site every person must -

- (a) enter at the designated points of entry indicated as such by way of appropriate signs erected by Council;
- (b) follow all instructions displayed or given to such person by the Council official in charge relating, inter alia, to the mode of delivery, access to the actual disposal point, the manner in which and place where waste should be deposited and disposed, and such person's conduct on the Council site;
- (c) present the waste for inspection and weighing where applicable;
- (d) give all the particulars of the nature, composition, type, quality, quantity and volume of the waste;
- (e) provide Council with all necessary information as to the person liable to pay any tariff or charge for the waste presented for disposal;
- (f) only dispose of waste which would not contravene any relevant conditions of any permit obtained in terms of the Environment Conservation Act, 1989 (Act 73 of 1989) or any other authorisation in respect of such Council site;

- (g) inform Council if they have reason to suspect that the waste may, by reason of its presence at the Council site, cause damage to, or create any potential nuisance, public health risk or pollution at such Council site.
- (3) Where Council is not informed in terms of subsection (2)(g) Council may take such measures or steps necessary to remedy the situation in which event the provisions of section 53 shall apply mutatis mutandis.
- (4) Council or any other persons duly authorised by Council may inspect the nature of the waste to be disposed or processed and may take samples and test any waste found on any vehicle including rail trucks to ascertain its composition and compliance with permit conditions.
- (5) Subject to section 43 no person who is not duly authorised by Council to do so may remove or interfere with any waste on any Council site.
- (6) No person shall enter any Council site for the purposes of scavenging.
- (7) No person in charge of a vehicle or container may cause or allow it to remain at any Council site for longer than the necessary time required for the disposal of its waste.
- (8) No person who is intoxicated or who consumes intoxicating agents such as drugs, liquor or similar agents on any Council site shall be allowed into or may remain on such Council site.
- (9) Council may specify and review the operating hours of any Council site and such operating hours must be adhered to.
- (10) Waste generators and their agents must obey any reasonable instruction given by Council regarding waste treatment and disposal at any Council site.
- (11) It is prohibited for any person to start a fire at any Council site without Council's prior permission.
- (12) Council may limit the type or size of any vehicle including rail trucks from which waste may be deposited or disposed.
- (13) Council may require that any waste to be deposited or disposed at any Council site shall be deposited or disposed at a particular place only, or that it be treated, wrapped, packaged, sealed or contained in any other prescribed manner before being deposited or disposed.

#### **42. Ownership of waste**

(1)(a) Any waste collected by Council and any waste deposited or disposed on any Council site, or on any other land or premises set aside by Council, or in any designated bin, bag or other container, shall become the property of Council on such collection, depositing or disposing, and no person who is not duly authorised thereto by Council shall remove, interfere or in any other manner whatsoever deal with such waste.

(b) Notwithstanding the provisions of subsection (1)(a) Council shall not be obliged to accept the ownership of any waste collected by Council or deposited or disposed on any Council site, or on any other land or premises set aside by Council, or in any designated bin, bag or other container.

(2) Subject to the provisions of subsection (1) insofar as Council is concerned, the holder of a permit in terms of the Environment Conservation Act, 1989 (Act 73 of 1989) or any other authorisation for a waste disposal site shall become the owner of all waste upon the depositing or disposal of such waste at such site.

(3) It shall be an offence for any person, other than a Council official, or any person appointed or authorised by Council to act on its behalf, to sort over or disturb any waste deposited or disposed on any Council site or any other land or premises set aside by Council.

#### **43. Recovery, recycling etc of waste by Council**

(1) Council may sell for its own account any waste collected, or deposited or disposed on any Council site, or on any other land or premises set aside by Council, or in any designated bin or other container, provided that Council may appoint or authorise any person to do so either on Council's behalf or for that person's own account subject to any conditions or limitations Council may impose.

(2) Council may appoint or authorise any person to recover any waste from any Council site for the purposes of reuse or recycling or using such recovered waste as raw or other material in the manufacture of a new, recycled or any other product.

(3) In the event of Council appointing or authorising any person -

(a) to sell any waste for that person's own account; or

(b) in terms of subsection (2)

Council will not be held liable under any circumstances for any damage, injury or loss of life either to persons, property or the environment, and which is directly or indirectly caused by or attributable to

that person's acts or omissions irrespective of how such damage, injury or loss of life may have arisen.

(4) Any person appointed or authorised in terms of subsections (1) and (2) must ensure compliance with any applicable -

- (a) occupational health and safety legislation;
- (b) environmental legislation;
- (c) health and environmental health legislation;
- (d) labour legislation;
- (e) other relevant legislation; and
- (f) any directives or orders issued by Council.

*[Rationale behind this section: to allow and regulate recovery of waste on Council sites. This is already taking place, but is not fully regulated into laws, but mostly through separate agreements entered into between the City and the person doing the recovery.]*

## **CHAPTER 5 – WASTE CONTRACTORS**

*[Rationale behind requiring waste contractors to register and supply Council with information: better regulation of and control over their activities.]*

### **44. Registration of waste contractor**

(1) Subject to the provisions of this By-law any waste contractor collecting, transporting, depositing or disposing trade, industrial, hazardous, special industrial or medical waste must in writing, and in the format prescribed by Council, and within six months of the coming into operation of this By-law, register with and notify Council of the waste contractor's -

- (a) full name, physical address and other contact details;

- (b) full nature of business;
- (c) experience in collecting, storing, transporting, depositing, disposing, treating or handling of any waste;
- (d) type and suitability of vehicles, equipment or machinery owned and/or operated by such waste contractor;
- (e) ability to comply, where applicable, with any legislation relating to road transportation law, and with this By-law;
- (f) environmental, health and safety record;
- (g) staff training and emergency preparedness program and record;
- (h) facilities or means for the proper and safe collecting, accumulating, storing, transporting, depositing, disposing, treating or handling of any waste;
- (i) details of any previous convictions, fines or penalties, if applicable;
- (j) full particulars of any public liability insurance or other insurance taken out by such waste contractor and the amount to be provided or covered in terms thereof; and
- (k) details of any previous accidents, incidents or emergencies, if applicable.

(2) A community based waste contractor collecting, transporting, depositing or disposing domestic or domestic special waste may be required by Council to register within a period determined by Council, and may further be obliged to furnish Council with any particulars and information requested.

(3) No person may hold him or herself out to be, or act as, waste contractor who collects, transports, deposits or disposes trade, industrial, hazardous, special industrial or medical waste -

- (a) until such time as all the information to be provided by such waste contractor in terms of subsection (1) has been furnished to and approved by Council; or
- (b) whose registration has been suspended or withdrawn in terms of section 45 or any other applicable law.

(4) No person may utilise a waste contractor for collecting, transporting, depositing or disposing trade, industrial, hazardous, special industrial or medical waste who is not registered with and approved by Council.

(5) Any person utilising or wishing to utilise a waste contractor who is required to register in terms of this By-law must within six months of the coming into operation of this By-law notify Council in writing to that effect, and which notification must state –

- (a) such person's full name, physical address and other contact details;
- (b) such person's full nature of business;
- (c) the nature, composition, type, quality, quantity and volume of waste to be collected and disposed or expected to be collected and disposed by the waste contractor to be utilised;
- (d) the expected frequency of collection and disposal; and
- (e) the full name, physical address and other contact details of the waste contractor to be utilised.

(6) As soon as any of the information to be provided either in terms of subsections (1) or (5) changes Council must be notified in writing to that effect by the waste generator or person utilising or wishing to utilise a waste contractor, as the case may be.

#### **45. Suspension, variation or withdrawal of registration**

The registration of any waste contractor may be suspended, varied or withdrawn by Council -

- (a) on written notice to that effect by the waste contractor to Council;
- (b) if the waste contractor has failed to comply with any provisions of this By-law or any other applicable law relating to the collection, storing, transportation, depositing, disposal, treatment or handling of any waste; or
- (c) on any other ground which Council considers relevant, and which is fair and reasonable under the circumstances.

#### **46. Record keeping**

(1) Any person utilising a waste contractor registered in terms of this By-law must -

- (a) maintain and keep an up-to-date written record of -
  - (i) the nature, composition, type, quality, quantity and volume of waste collected and disposed by the waste contractor;
  - (ii) the time and date of the collection;
  - (iii) the waste contractor's name;
- (b) obtain written proof from the waste contractor of the proper and safe disposal of the waste, and keep such written proof for a period to be determined by Council;
- (c) make copies of the written proof of the proper and safe disposal of the waste available to Council on request.

(2) Any waste contractor must maintain and keep, for a period to be determined by Council, a written record in respect of each collection and disposal of waste, which record must be updated simultaneously with each collection and disposal, showing -

- (a) the dates and times of collection and disposal;
- (b) the name of the waste generator or person utilising such waste contractor's service;
- (c) the nature, composition, type, quality, quantity and volume of waste collected and disposed;
- (d) any measures or steps taken or which must be taken to handle, treat, encapsulate, contain, neutralise, or render such waste less toxic, harmful or hazardous; and
- (e) the waste disposal site or other place at which the waste was disposed.

## Part 1 – Waste inspectors

*[Please note: this Part is a draft, and is dependent to a degree on clarification of the points listed under section 48.*

*It is based largely on the provisions of sections 31B-P recently inserted into NEMA, and also on the provisions of the Draft National Integrated Waste Management Bill.*

*It further follows international trends as set out in foreign legislation, eg. Australian]*

### **47. Appointment of waste inspector**

(1) Council may in writing appoint any official as an authorised waste inspector whose functions and authority will include the administration, implementation and enforcement of any provisions of this By-law and any other waste management related by-laws promulgated by Council.

(2) Any waste inspector appointed and authorised in terms of subsection (1) must be furnished by Council with an identity card.

(3) Any waste inspector who is seeking to exercise any power under this By-law and any other waste management related by-laws promulgated by Council, must produce his or her identity card upon request to any other person.

(4) No person may hold him or herself out to be, or act as, waste inspector, unless such person has been appointed and authorised as waste inspector in terms of subsection (1).

### **48. Powers of waste inspectors - FEEDBACK REQUIRED**

*[Please note: the exact powers and their scope must still be clarified. This Part of the By-law should also be discussed with Law Enforcement and/or Municipal Police.]*

(1) In addition to the powers, functions and duties a waste inspector has as an authorised representative of Council under section 101 of the Municipal Systems Act, 2000 (Act 32 of 2000) or any other law, a waste inspector, subject to the provisions of this By-law and any other waste management related by-laws promulgated by Council, may-

- (a) enter any land or premises to execute work or conduct an inspection;
- (b) search any vehicle or other mode of conveyance with the consent of the owner or person in charge thereof;

- (c) require any person to produce any book, document or record or any written or electronic information reasonably required in connection with the administration or enforcement of this By-law to such waste inspector or cause it to be delivered or produced at any other place;
- (d) require any person to produce any permit, licence, authorisation, registration, certificate, or other similar document, or a copy thereof;
- (e) direct by way of a notice any person to manage, prevent, reduce, control, treat, handle, rectify or clean up any waste on or in any equipment, premises, land or vehicle by any specified measures or steps, and within the time specified in such notice;
- (f) direct by way of a notice any person to collect, store, transport, deposit, dispose, treat, handle or otherwise comply with any provision of this By-law and any other waste management related by-laws promulgated by Council within the time specified in such notice;
- (g) give any order or direction reasonably required in connection with the exercise of any power under this By-law or otherwise in connection with the administration or enforcement of this By-law and any other waste management related by-laws promulgated by Council;
- (h) measure or take samples, specimens or articles of any waste or other matter, including soil and air samples, specimens or articles, found on or in any premises, land, or vehicle;
- (i) require any person to provide his or her full name and address, and to show any acceptable identification;
- (j) require any person on or in the premises, land or vehicle to provide such waste inspector with reasonable assistance to exercise any power under this By-law and any other waste management related by-laws promulgated by Council; and
- (k) be accompanied by an interpreter or any other person reasonably required to assist such waste inspector.

(2) To the extent that access to premises does not fall within the scope of section 101 of the Municipal Systems Act, 2000, or any other law, a waste inspector who has reasonable grounds to suspect that there is an environmental emergency and that any delay in obtaining a search warrant

will cause serious harm to human health or damage to the environment may, without warrant, enter and search any premises associated with the emergency.

(3) Where, in the opinion of the waste inspector, any search of a vehicle gives rise to the reasonable apprehension that the presence of waste in or on that vehicle is a serious and immediate danger to human health or to the environment, the waste inspector may seize that vehicle in order to prevent, or where that is impossible, to mitigate harm to human health or damage to the environment.

(4) In the event of the seizure of any vehicle under subsection (3), Council must-

- (a) forthwith take steps to dispose of such waste in order to prevent, and where that is impossible, to mitigate harm to human health or damage to the environment;
- (b) provided there are no contrary provisions to that effect in any other law relating to the seizure and confiscation of property and vehicles, return the said vehicle within a reasonable period after disposing of such waste to the control of the person from whose possession or control it was taken.

(5) Where any other thing has been removed or delivered to any place in terms of subsection (1), the waste inspector must –

- (a) provide a receipt for such thing;
- (b) return such thing within a reasonable period, or at the conclusion of any criminal or other prosecution unless a court of law orders that such thing is not to be returned or that it must be dealt with in a specified manner.

(6) Any waste inspector may issue a written compliance notice referred to in section 50.

*[Question: does Council want to amend, limit or extend the above powers and duties? If so, changes will have to be made. This should in any event be discussed with Law Enforcement and/or Municipal Police.]*

#### **49. Offences in relation to waste inspectors**

Any person who -

- (a) hinders or obstructs, or attempts to hinder or obstruct, any waste inspector, or any person assisting such waste inspector, in exercising any power under this By-law and any other waste management related by-laws promulgated by Council;
- (b) uses abusive, threatening or insulting language to any waste inspector, or any person assisting such waste inspector;
- (c) assaults or threatens, or attempts to assault or threaten, any waste inspector, or any person assisting such waste inspector;
- (d) refuses or fails to comply with any requirement or direction of any waste inspector; or
- (e) when required by any waste inspector to answer any question, refuses or fails to answer the question to the best of that person's knowledge, information and belief

is guilty of an offence.

## **Part 2 – Compliances notices, recovery of costs etc**

### **50. Compliance notices**

Any Council official authorised to that effect may issue a written compliance notice, and which may specify a compliance period, to any person -

- (a) where such person does not comply with any provision of this By-law and any other waste management related by-laws promulgated by Council;
- (b) where the Council official reasonably suspects that such person is not complying with any provision of this By-law and any other waste management related by-laws promulgated by Council;
- (c) ordering such person to take any preventative or precautionary measures or steps to prevent a further contravention or the continuation of the contravention of any provisions of this By-law and any other waste management related by-laws promulgated by Council; and
- (d) to take any measures or steps Council considers necessary to clean up or dispose any waste not disposed in terms of this By-law, and to rehabilitate the affected facets

of the environment and to ensure that such waste, and any contaminated material which cannot be cleaned, treated or rehabilitated, is disposed in terms of the provisions of this By-law and any other waste management related by-laws promulgated by Council.

#### **51. Objections to notices**

(1) Any person who receives a compliance notice or any other notice may object to such notice by making written representations to Council within a period to be determined by Council.

(2) After considering any representations made in terms of subsection (1) and any other relevant information Council -

- (a) may confirm, modify or cancel such compliance notice or any other notice or any part thereof; and
- (b) must specify the period within which the person who received such compliance notice or any other notice must comply with any part thereof that is confirmed or modified.

#### **52. Failure to comply with notice**

(1) Any person who fails to comply with a compliance notice or any other notice is guilty of an offence.

(2) If any person fails to comply with a compliance notice or any other notice Council may -

- (a) suspend, vary, revoke or withdraw any registration, permit, licence or other authorisation issued or granted by Council and which is or was not adhered to, or which is the subject of such compliance notice or any other notice;
- (b) take any necessary measures or steps and, subject to the provisions of section 53, recover the costs of doing so from any person who failed to comply;
- (c) institute criminal proceedings; and
- (d) notify any other relevant authority of such person's failure.

### **53. Recovery of costs**

(1) In addition, or as an alternative, to the provisions of section 50, or if a person fails to comply with a compliance notice or any other notice, order or directive issued by Council in terms of the provisions of this By-law and any other waste management related by-laws promulgated by Council, Council may itself, and on behalf of the person issued with any of the foregoing, take whatever measures or steps it considers necessary to ensure that any provisions of this By-law or any other waste management related by-laws promulgated by Council are being complied with, and which measures or steps may include -

- (a) the cleaning up or disposal of any waste not disposed in terms of any provisions of this By-law and any other waste management related by-laws promulgated by Council;
- (b) rehabilitating the premises or land and affected facets of the environment; and
- (c) disposing any contaminated material which cannot be cleaned or rehabilitated.

(2) In the event of Council acting in terms of subsection (1) Council may recover the costs of taking these measures or steps from

- (a) the person issued with the compliance notice, notice, order or directive; and
- (b) any other person, who in terms of any provisions of this By-law or any other waste management related by-laws promulgated by Council, also would in any event have been obliged to take any measures or steps set out in the issued compliance notice, notice, order or directive;

and for which costs any of the foregoing persons are jointly and severally liable.

(3) The costs claimed under subsection (2) must be reasonable and may include, but are not limited to, labour, administrative, overhead, investigation and prosecution costs.

### **Part 3 – Offences**

*[Section 54 is based on existing by-laws, eg. Dumping and Littering By-law, and also on NEMA and the National Water Act.]*

**54. Offences and penalties - FEEDBACK REQUIRED**

(1) Any person, who –

- (a) contravenes or fails to comply with any provisions of this By-law;
- (b) fails to comply with any compliance notice, notice, order, directive, condition or limitation issued or imposed in terms of or for the purposes of this By-law; or
- (c) fails to comply with any lawful instruction given in terms of or for the purposes of this By-law; or
- (d) hinders, obstructs, uses abusive, threatening or insulting language, assaults or threatens, or attempts to hinder, obstruct, assault or threaten any Council official or person appointed by Council to act on its behalf in the execution of his or her duties under this By-law

is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding *[xxxx days/weeks/months ????? – to be discussed with Law Enforcement, Municipal Police and most importantly the Chief Magistrates of the relevant Magistrates' Courts]*, or to both such fine or imprisonment.

(2) In the case of a continuing offence a person shall be guilty of a separate offence and liable on conviction to an additional fine or imprisonment for a period not exceeding *[xxxx days/weeks/months ????? – to be discussed with Law Enforcement, Municipal Police and most importantly the Chief Magistrates of the relevant Magistrates' Courts]*, or to both such fine or imprisonment, in respect of each day on which such offence continued.

(3) A court may, when considering sentence, take into account as aggravating circumstances that, inter alia –

- (a) a convicted person has delayed in complying with any compliance notice, notice, order, directive, condition or limitation issued or imposed in terms of this By-law;
- (b) a financial advantage was or would have been gained by a convicted person in consequence of the commission of the offence;
- (c) the offence posed a potential or actual threat to public health, public safety or the environment.

(4) If a person is convicted under this By-law of an offence which has caused damage to or loss of property, or which has had an adverse impact on the environment, then, in addition to any other sentence it imposes, the court may –

- (a) if the property belongs to another person, and on the application of the injured person or the prosecutor acting on the instructions of such injured person, order the convicted person to pay such injured person compensation for the damage or loss in accordance with section 300 of the Criminal Procedure Act, 1977 (Act 51 of 1977); and
- (b) order the convicted person, at his or her cost, and to the satisfaction of Council, to -
  - (i) repair the damage;
  - (ii) make good the loss; and/or
  - (iii) rehabilitate the environment.

(5) If a person is convicted of an offence in terms of this By-law, the court may, in addition to any other punishment it imposes issue an order compelling the convicted person, within a period determined by the court -

- (a) to comply with the relevant provisions of this By-law; or
- (b) where applicable, to comply with the relevant provisions of any compliance notice, notice, order, directive, condition or limitation issued or imposed in terms of this By-law.

(6) If –

- (a) a manager, agent or employee performs or omits to perform an act which it was his or her task to perform or refrain from performing and which, under this By-law, is an offence for the employer to perform or refrain from performing; and
- (b) the act or omission of the manager, agent or employee took place because the employer failed to take all reasonable steps to prevent such act or omission,

then the employer is guilty of the offence and proof of the act or omission by the manager, agent or employer is prima facie evidence that the employer is guilty under this subsection; provided that no penalty other than a fine shall be imposed if a conviction is based on this subsection.

## **CHAPTER 7 – GENERAL PROVISIONS**

### **55. Serving of documents**

(1) Any compliance notice, notice, order, directive or other document which has to be issued or served for the purposes of this By-law, is regarded to have been properly issued or served if -

- (a) it has been issued to or served on the person concerned personally;
- (b) it has been sent by registered post or speed post -
  - (i) to the person's last known business or residential address; or
  - (ii) in the case of a juristic person, to its registered address or principal place of business;
- (c) it has been served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
- (d) it has been affixed to the principal door of the premises where service cannot be effected in terms of paragraphs (a) to (c) above; or
- (e) where an address is unknown despite reasonable enquiry, it is published once in the Gazette and once in a local newspaper circulating in the area of that person's last known business, residential or registered address.

(2) A compliance notice, notice, order, directive or other document issued in terms of subsections (1)(b) to (e) must be regarded as having come to the notice of the person, unless the contrary is proved.

### **56. Exemptions**

Notwithstanding the provisions of this By-law, Council may exempt any -

- (a) person;
- (b) class of persons;
- (c) categories of users and waste generators; or
- (d) geographical areas

from any of the provisions of this By-law, in which event Council may impose any other conditions or limitations it considers necessary.

#### **57. Restriction of liability**

Neither Council or any Council official will be liable for any damage or loss caused by-

- (a) the exercise of any power or the performance of any duty under this By-law; or
- (b) the failure to exercise any power, or perform any duty under this By-law

unless the exercise of or failure to exercise the power, or performance of or failure to perform the duty was unlawful or in bad faith.

#### **58. Council and State bound**

This By-law is binding on Council and the State.

#### **59. Conflict**

If this By-law conflicts with any other By-law which directly or indirectly regulates any matter dealt with in this By-law, the provisions of this By-law prevail, except where indicated to the contrary.

#### **60. Savings**

Anything done or deemed to have been done under any other law remains valid to the extent that it is consistent with this By-law, or until anything done under this By-law overrides it.

**61. Interpretation**

(1) In the event of a conflict between the English version of this By-law and a version of any other language, the English version shall be decisive.

(2) The headings do not form part of this By-law.

**62. Repeal**

The legislation in the Schedule is hereby repealed to the extent set out.

**63. Short title and commencement**

This By-law shall be known as the Integrated Waste Management By-law and shall come into operation on a date to be published in the Provincial Gazette.

**SCHEDULE**

(OF BY-LAWS TO BE REPEALED)

STILL TO BE COMPLETED