

By- Laws for Waste Management

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REPEAL OF BY-LAWS AND TRANSITIONAL ARRANGEMENTS

Preamble

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

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

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

AND WHEREAS the “Municipality” wishes to regulate waste collection, separation, storage, processing, treatment, recycling, reuse and disposal of waste including littering and illegal dumping and the regulation of facilities used for the management of waste, with the ultimate aim of avoiding or minimising the generation and impact of waste;

AND WHEREAS the “Municipality” promotes the waste management hierarchy approach as outlined in the National Waste Management Strategy.

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CHAPTER 1: DEFINITIONS, OBJECTIVES AND PRINCIPLES

1. Definitions

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

“Building waste” means waste, excluding hazardous waste, produced during the construction, alteration, repair or demolition of any structure, and includes building rubble, earth, rock and wood displaced during that construction, alteration, repair or demolition.

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

“by-law” means legislation(waste by-law) passed by the municipality’s council which is binding on persons who resides within, visiting the area of authority of the municipality or using municipal services;

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

“Health care risk waste” means waste capable of producing any disease and includes, but is not limited to the following:

- (a) Laboratory waste;
- (b) Pathological waste;
- (c) Isolation waste;
- (d) Geno toxic waste;
- e) Infectious liquids and infectious waste;
- (f) Sharps waste;
- (g) Chemical waste; and
- (h) Pharmaceutical waste;

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

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

“municipality” means Tswelopele Local municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

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

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

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

“Receptacle” means an approved container having a capacity for temporary storage of waste in terms of these by-laws;

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

“Tariff” means the prescribed charge determined by the Municipality in terms of any applicable legislation for any service rendered by the Municipality in terms of these by-laws.

2. Objectives of the by-laws

(1) The objectives of these by-laws are to –

- (a) Give effect to the right contained in section 24 of the Constitution by regulating waste management within the area of the municipality's jurisdiction;
- (b) Provide, in conjunction with any other applicable law, an effective legal and administrative framework, within which the Municipality can manage and regulate waste management activities;
- (c) Ensure that waste is avoided, or where it cannot be altogether avoided, minimised, reused, recycled, recovered, and disposed of in an environmental sound manner; and
- (d) Promote and ensure an effective delivery of waste services.

3. Scope of application

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

4. Principles

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

5. General duty of care

(1) Every person has a duty to manage any waste generated by his or her activities or the activities of those persons working under his or her direction in such a manner that the waste does not cause harm to human health or damage to the environment. In particular, the person must ensure that:

(a) Waste generation is avoided and where such waste cannot be avoided, minimise the toxicity and amounts of waste;

(b) Waste is reduced, reused, recycled or recovered;

(c) Where waste must be disposed of, the waste is treated and disposed in an environmentally sound manner;

(d) The waste is managed in such a manner that it does not endanger health or the environment or cause a nuisance through noise, odour or visual impacts.

(2) Any person subject to the duty imposed in subsection (1) may be required by the Municipality or an authorised official to take measures to ensure compliance with the duty.

(3) The measures referred to in subsection (2), that a person may be required to undertake include

–

(a) Investigation, assessment and evaluation of the impact that their activities, the process or a situation have on the environment;

(b) Informing and educating employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing damage to the environment;

(c) Ceasing, modifying or controlling any process, situation or activity which causes damage to the environment;

(d) Containing or preventing the movement of pollutants or other causes of damage to the environment;

(e) Eliminating or mitigating any source of damage to the environment; or

(f) Rehabilitating any damage to the environment.

CHAPTER 2: SERVICE PROVIDERS

6. Service providers/Contractors

(1) The Municipality may discharge any of its obligations by entering into a service delivery agreement with a service provider or service providers in terms of the Municipal Systems Act, 2000.

(2) Subject to the provisions of the Municipal Systems Act or any other legislation, the Municipality may assign to a service provider any power enjoyed by the Municipality under these by-laws: provided that the assignment is required for the service provider to discharge an obligation under its service delivery agreement, but the accountability shall remain with the Municipality.

(3) Any reference in these by-laws to “Municipality or service provider” should be read as the “Municipality” if the Municipality has not entered into a service delivery agreement, and should be read as “service provider” if the Municipality has entered into a service delivery agreement.

(4) Service providers must provide services in accordance with a customer charter which must be drawn up in consultation with the Municipality and which must-

- (a) Accord with the provisions of these by-laws;
- (b) Be accessible to the public;
- (c) Establish the conditions of the service including collection times; and
- (d) Provide for the circumstances in which Municipal services may be limited.

CHAPTER 3: PROVISION OF WASTE SERVICES

7. Storage and receptacles for general waste

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

8. Collection and transportation

(1) The Municipality may -

- (a) Only collect waste stored in approved receptacles;
- (b) Set collection schedules for both commercial and residential properties for reasons of health, safety or environmental protection.
- (c) Collect waste outside the set schedule on request by any person and at a fixed tariff agreed to by both parties prior to collection.
- (d) Set the maximum amount of quantities of waste that will be collected;
- (e) Identify waste streams which may not be collected by the Municipality or which are unsuitable for collection; and where such a case exist, advise the owner of alternatives

(2) Any person transporting waste within the jurisdiction of the Municipality must –

- (a) Ensure that the receptacle or vehicle or conveyance is adequate in size and design for the type of waste transported;
- (b) Remove or transport the waste in a manner that would prevent any nuisance or escape of material;
- (c) Maintain the receptacle or vehicle or conveyance in a clean, sanitary condition at all times;
- (d) Not permit waste transported to become detached, leak or fall from the receptacle or vehicle or conveyance transporting it;
- (e) Ensure that waste is transported or deposited at a waste transfer station, recycling facility and/or disposal facility licensed to accept such waste;
- (f) Ensure that the vehicle is not used for other purposes whilst transporting waste;
- (g) Apply to the Municipality to register as a transporter of waste in accordance with the requirements set out by the Municipality and adhere to all the conditions attached to the registration if the transportation is done for commercial purposes.

9. Waste transfer stations

(1) Any holder of waste must –

(a) Utilise appropriate waste transfer stations as directed by the Municipality or service provider; and

(b) Adhere to the operational procedures of a transfer station as set out by the Municipality.

10. Waste disposal

(1) Waste generated in the municipal area must be disposed of at a waste disposal facility as directed by the Municipality.

(2) In disposing of waste the operator of the site must comply with the provisions of any other legislation regulating the disposal of waste.

(3) Any person disposing waste at a Municipal owned disposal site must adhere to the site operational procedures approved by the Municipality.

(4) All private waste disposal sites within the jurisdiction of the Municipality, must comply to approved local norms and standards and any other relevant legislation.

CHAPTER 4: RECYCLING OF WASTE

11. Storage, separation and collection of recyclable domestic waste

(1) Any person who is undertaking any activity involving reduction, re-use, recycling or recovery of waste including scrap dealers, by-back centres and formalised recycling groups must before undertaking that activity, make sure that the activity is less harmful to the environment than the disposal of such waste and must notify the Municipality of an intention to undertake such an activity in writing.

(2) Any person undertaking the activities contemplated in subsection (1) must adhere to the requirements set out in national or provincial legislation.

(3) The Municipality may require any person or owner of premises to separate their waste and use different receptacles provided by the Municipality or service provider.

(4) In cases where the Municipality, service provider or industry has provided separate receptacles for recyclable material, no person may use other receptacles for recyclable material.

CHAPTER 5: WASTE INFORMATION

12. Registration and provision of waste information

(1) Any person who conducts an activity, which has been identified in terms of provincial and/or national waste information system must, upon request, present to the Municipality proof that such an activity is registered and reporting the required information.

(2) The Municipality may, at its own discretion and as reasonably possible, require any facility, person conducting an activity to register and report to the Tswelopele Local Municipality any other information for the purpose of facilitating effective waste management within its jurisdiction.

CHAPTER 6: PROVISION FOR REGISTRATION OF TRANSPORTERS

13. Requirements for registration

(1) Any person who transports waste for gain/commercial purpose must adhere to the requirements as set out in section 25 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).

(2) The Municipality may, by notice in the provincial gazette, require any person or category of transporters to register and report to the Municipality information as set out in that notice. The notice may include but not limited to-

- (a) The application forms;
- (b) A prescribed fee;
- (c) Renewal intervals;
- (d) List of transporters, types and thresholds of waste transported;
- (e) Minimum standards or requirements to be complied with.

CHAPTER 7: LISTED WASTE MANAGEMENT ACTIVITIES

14. Commencement, conducting or undertaking of listed waste management activities

(1) Any person conducting a listed waste management activity listed in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), must upon request by an official of the Municipality, provide proof of compliance with the requirements of a licence issued by the competent authority.

(2) Any person conducting or intending to conduct any activity contemplated in subsection 7 (1) must, at least sixty (60) days before commencement, conducting or undertaking such activity, inform the Municipal waste management officer in writing of the intention.

CHAPTER 8: GENERAL PROVISIONS

15. Duty to provide facilities for litter

(1) The Municipality, or owner of premises in the case of privately owned land, must take reasonable steps to ensure that sufficient and appropriate receptacles are provided for the discarding of litter by the public, in any place to which the public has access.

(2) The Municipality, or owner of privately owned land, must ensure that all receptacles installed on the premises for the collection of litter are –

- (a) Maintained in good condition;
- (b) Suitably weighted and anchored so that they cannot be inadvertently overturned;
- (c) Constructed in such a manner as to ensure that they are weatherproof and animal proof;
- (d) Of suitable size to contain all litter likely to be generated on the premises and by the users thereof;
- (e) Placed in locations convenient for the use by users or occupants of the premises to discourage littering or the unhealthy accumulation of waste; and
- (f) Emptied and cleansed periodically or when full. The emptying and cleansing of receptacles must be done frequently to ensure that no receptacle or its contents may become a nuisance or provide reasonable grounds for complaint.

(3) In any public place where a receptacle has been placed for the depositing of litter, the municipality may put up notices about littering.

16. Prohibition of littering

(1) No person may –

(a) Cause litter;

(b) Sweep any waste into a gutter, onto a road reserve or onto any other public place;

(c) Disturb anything in, or remove anything from any receptacle which has been placed for the purposes of collecting litter in such a manner as to cause the contents of the receptacle to spill or fall onto the ground around it; and

(d) Allow any person under his control to do any of the acts contemplated in paragraphs (a), (b) or (c) above.

(2) Notwithstanding the provisions of subsection 8 (1), the Municipality, or owner in the case of privately owned land to which the public has access, must within a reasonable time after any litter has been discarded, dumped or left behind, remove such litter or cause it to be removed.

17. Prohibition of nuisance

(1) Any person handling waste within the Municipality, either through storage, collection, transportation, recycling or disposal must-

(a) Take reasonable measures to prevent nuisance, injury, harm, damage, annoyance or inconvenience to any person and the environment;

(b) Take measures to remedy any spillages, harm, damage or nuisance referred to in section (a) above;

(c) At their own cost, clean any waste causing nuisance to any person or the environment;

(d) Ensure compliance to the notice contemplated in sub section (1) (c); the Municipality may clean or remedy waste causing nuisance to any person or the environment, at the Municipality's cost and claim such cost from the offender.

18. Burning of waste

(1) No person may-

(a) Dispose of waste by burning it, either in a public or private place;

(b) Incinerate waste either in a public or private place except in an incinerator licensed by the relevant national or provincial authorities to do so, or at a place designated by the Municipality for such purpose.

19. Unauthorised disposal/dumping

(1) No person may except with the permission of the occupier, owner or of the person or authority having control thereof, dump, accumulate, place, deposit, leave or cause or allow to be dumped, accumulated, placed, deposited or left any waste whatsoever, whether for gain or otherwise, on or in a public place; any drain, watercourse, flood prone areas, tidal or other water in or in the vicinity of any road, highway, street, lane, public footway or pavement, roadside or other open space to which the public have access; or private or municipal land.

(2) The local authority may at the expense of an owner of land, person in control of land or a person who occupies the land rehabilitate any damage caused to the environment as a result of the activity or failure of the person referred to in subsection (1) to take reasonable measures to prevent unauthorised disposal or dumping.

20. Abandoned articles

(1) Any article, other than a motor vehicle deemed to have been abandoned in terms of the Road Traffic Act, which, in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition of such article, is reasonably regarded by the Municipality as having been abandoned, may be removed and disposed of by the Municipality as it may deem fit.

(2) The Municipality may remove and dispose of any article which is chained or fastened to any pole, parking meter or any other property belonging to the council, without authorisation as it may deem fit.

21. Liability to pay applicable tariffs

(1) The owner of premises where the Municipality is rendering waste services contemplated in this by-law is liable for the payment of prescribed tariffs for such services, and is not exempted from or reduction of such tariffs due to non-usage, partial or limited use of such services.

(2) The Municipality reserves the right to review such tariffs contemplated in subsection (1) on an annual basis.

(3) The Municipality may exempt any person or category of persons deemed to be falling in the indigent category from paying prescribed tariffs for waste management services as outlined in the Municipal Indigent Policy.

22. On-site disposal

(1) The Municipality may, as it deem fit in an area where a municipal waste management service is not already provided, after consultation with the concerned community, declare an area(s) as demarcated for on-site disposal of general waste.

(2) A declaration contemplated in subsection (1) must be published in a provincial gazette and may include but not limited to—

- (a) Time frames for such a declaration;
- (b) Minimum standards to be adhered to for on-site disposal; and
- (c) Quantity of waste that may be disposed.

(3) The Municipality has a right to inspect the areas contemplated in subsection (1) on a regular basis.

23. Storage, collection, composting and disposal of garden waste

(1) The owner or occupier of the premises on which garden waste is generated, may compost garden waste on the property, provided that such composting does not cause a nuisance or health risk.

(2) The owner or occupier of the premises on which garden waste is generated and not composted, must ensure that such waste is collected and disposed within a reasonable time after the generation thereof.

(3) The Municipality may, as far as it is reasonably possible, direct any transporter of garden waste or any person providing garden maintenance services, to transport their garden waste to a designated transfer station or facility provided by the Municipality.

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

24. Collection and disposal of bulky waste

(1) Any person generating bulky waste must ensure that such waste is collected and recycled or disposed of at a designated facility and may not put such waste as part of the municipal routine collection.

(2) At a request of the owner or occupier of any premises, the Municipality may remove bulky waste from premises at a prescribed tariff, provided that the Municipality is able to do so with its refuse removal equipment.

(3) In case the Municipality has been called to remove illegally dumped waste on vacant land, the Municipality may remove that waste subject to subsection (2) and charge the owner of that vacant land.

25. Generation, storage, collection, reuse and disposal of building waste

(1) The owner or occupier of premises on which building waste is generated and person conducting an activity which causes such waste to be generated, must ensure that—

- (a) Until disposal, all building waste, together with the containers used for the storage, collection or disposal thereof, is kept on the premises on which the waste was generated;
- (b) The premises on which the building waste is generated does not become unsightly or cause a nuisance as a result of accumulated building waste;
- (c) Any building waste which is blown off the premises is promptly retrieved; and
- (d) Pursuant to any instructions from the Municipality, any structure necessary to contain the building waste is constructed.

(2) Any person may operate a building waste removal service subject to adherence to relevant legislation.

(3) Should the Municipality provide such a service, it shall be done at a prescribed tariff.

(4) The owner or occupier of premises may apply to the Municipality for written consent to place an appropriate receptacle for the storage and collection of building waste in the road reserve for the period of such consent.

(5) Every receptacle, authorised in terms of subsection (4) and used for the removal of building waste, must –

(a) Have a clearly marked name, address and telephone number of the person in control of such approved receptacle;

(b) Be fitted with reflecting chevrons or reflectors which must completely outline the front and the back thereof; and

(c) Be covered at all times other than when actually receiving or being emptied of such waste so that no displacement of its contents can occur.

(6) The owner or occupier of premises on which building waste is generated must ensure that the waste is disposed of at a facility designated for that purpose by the Municipality.

(7) For the purpose of reclamation of land, reuse or recycling, building waste may with written consent of the Municipality, be deposited at a place other than the Municipality's waste disposal sites.

(8) A consent given in terms of subsection (7) shall be subject to the conditions, as the Municipality may deem necessary.

26. Special industrial, hazardous or health care risk waste

(1) Any waste generator who generates special industrial, hazardous or health care risk waste or an owner of premises where such waste is generated must contract with an accredited service provider to collect and dispose of such waste at a licensed hazardous waste disposal facility.

(2) Subsection (1) does not apply to generators of waste who have the capacity to conduct the service.

(3) Any person transporting industrial, hazardous or health care risk waste must ensure that the facility or place to which such waste is transported is authorised to accept such waste prior to offloading the waste from the vehicle.

CHAPTER 9: ADMINISTRATIVE MATTERS COMPLIANCE AND ENFORCEMENT

27. Exemptions

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

(2) The Municipality may –

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

(b) Alter or cancel any exemption or condition in an exemption; or

(c) Refuse to grant an exemption.

(3) In order to consider an application in terms of subsection (1), the municipality may obtain the input or comments of the owners or occupants of surrounding premises.

(4) An exemption does not take effect before the applicant has undertaken in writing to comply

with all conditions imposed by the municipality under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the Municipality, the exemption lapses.

(5) If any condition of an exemption is not complied with, the exemption lapses immediately.

28. Appeals

(1) A person whose rights are affected by a decision taken by the Municipality in terms of these by-laws, may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act 2000 (Act No. 32 of 2000) to the municipal manager or delegated official within 21 days of the date of the notification of the decision.

29. Offences

(1) Any person who –

(a) Obstructs or hinders the Municipality in exercising the powers or performance of functions or duties as outlined in this by-laws;

(b) Contravenes or fails to comply with any provision of these by-laws; or

(c) Fails to comply with the terms of a notice served upon him or her in terms of these by-laws, shall be guilty of an offence

30. Penalties

(1) Any person who contravenes or fails to comply with a provision of these by-laws is guilty of an offence and liable on conviction to imprisonment for a period not exceeding **6 months** or to a fine not exceeding **R3000** or to both such fine and imprisonment.

31. Short title and commencement

(1) These by-laws are called Waste Management By-laws of the **Tswelopele Local Municipality**, and take effect on the date determined by the Municipality in the provincial gazette.

(2) Different dates may be so determined for different provisions of these by-laws.

32. Repeal of by-laws

(1) Any by-law relating to waste management or refuse removal or disposal within the Tswelopele Local Municipality or any of its predecessors or areas formerly existing under separate Municipalities or other organs of State is repealed from the date of promulgation of these bylaws

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