

PROVINCIAL NOTICE 33 OF 2016

UBUHLEBEZWE MUNICIPALITY



INTEGRATED WASTE MANAGEMENT
(RECYCLING) BYLAWS

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UBUHLEBEZWE LOCAL MUNICIPALITY**INTEGRATED WASTE MANAGEMENT (RECYCLING) BY-LAWS****REPEAL OF BY-LAWS AND TRANSITIONAL ARRANGEMENTS (ADOPTED BY RESOLUTION OF THE MUNICIPAL COUNCIL OF UBUHLEBEZWELOCAL MUNICIPALITY)**

The Ubuhlebezwe Local Municipality (“the Municipality”) hereby publishes the Waste Management (Recycling) By-Laws set out below, promulgated by the municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996 and section 9(3) (a-d) of the National Environmental Management: Waste Act, 2008.

Preamble

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

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

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

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

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

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CHAPTER 1: DEFINITIONS, OBJECTIVES AND PRINCIPLES

1. Definitions

In this 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.

“Basic Refuse Removal” means the baseline service level as set out in the National Policy on Free Basic Refuse Removal.

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

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

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

“container” means a disposable or re-usable vessel in which waste is placed for the purposes of storing, accumulating, handling, transporting, treating or disposing of that waste, and includes bins, bin-liners and skips;

“disposal” means the burial, deposit, discharge, abandoning, dumping, placing or release of any waste into, or onto, any land;

“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.

“general waste” means waste that does not pose an immediate hazard or threat to health or to the environment, and includes:

- (a) domestic waste;
- (b) building and demolition waste;
- (c) business waste: and
- (d) inert waste.

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

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

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

“Indigent” means a person that is unable to pay the full economic costs of municipal services due to a number of legitimate factors.

“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;

“inert waste” means waste that:

- (a) does not undergo any significant physical, chemical or biological transformation after disposal;
- (b) does not burn, react physically or chemically biodegrade or otherwise adversely affect any other matter or environment with which it may come into contact; and
- (c) does not impact negatively on the environment, because of its pollutant content and because the toxicity of its leachate is insignificant;

“illegal dumping” means refuse that has been left at a place with the intention of abandoning it, such refuse as sand, paper, plastic bottles, builder’s rubble and any other material that may create a nuisance or that is unsightly and detrimental to the environment;

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

“local community”/“community”, in relation to a municipality means that body of persons comprising:

- (a) the residents and ratepayers of the municipality;
- (b) any civic organisations and non-governmental, private sector or labour organisations or bodies which are involved in local affair within the municipality;
- (c) visitors and other people residing outside the municipality who, because of their presence in the municipality make use of services or facilities provided by the municipality, and includes, more specifically, the poor and other disadvantaged sections of such body of persons;

“Municipality” means a 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 (No.32 of 2000)

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

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

“**pharmaceutical waste**” includes expired, unused, spilt and contaminated pharmaceutical products, drugs, vaccines and sera that are no longer required and that need to be disposed of appropriately;

“**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;

“**waste disposal facility**” means any site or premise used for the accumulation of waste with the purpose of disposing of that waste at that site or on that premise;

“**waste transfer facility**” means a facility that is used to accumulate and temporarily store waste before it is transported to a recycling, treatment or waste disposal facility;

“**waste treatment facility**” means any site that is used to accumulate waste for the purpose of storage, recovery, treatment, reprocessing, recycling or sorting of that waste.

2. Objectives of the By Laws

(1) The objectives of this 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, minimized, re-used, recycled, recovered, and disposed of in an environmental sound manner.
- (d) promote and ensure an effective delivery of waste services.

3. Scope of application

(1) This by-law 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 minimization, waste reuse, recycling and recovery, waste treatment and disposal.
- (2) The By Law seeks 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 promotes 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 activities or the activities of those persons working under his 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 avoid, minimise the toxicity and amounts of waste;
 - (b) separate waste with the aim of minimising waste and its impacts on the environment and to store the recyclable waste separately from non-recyclable waste provided that industrial waste must be separated into liquids, components and materials that can be treated for recycling or reuse;
 - (c) reduce, reuse, recycle and recover waste;
 - (d) where waste must be disposed of, ensure that the waste is treated and disposed in an environmentally sound manner;
 - (e) manage the waste 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 act, 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 the effects of the damage to the environment.

CHAPTER 2: PLANNING AND INSTITUTIONAL MATTERS

6. Integrated Waste Management Plan (IWMP)

- (1) The “Municipality” is preparing an Integrated Waste Management Plan (IWMP) which would be adopted by the Council, in which the plan will be incorporated in the Integrated Development Plan in accordance with the provisions of the National Environmental Management Waste Act, 2008 (Act No. 59 of 2008).
- (2) The Plan contemplated in subsection (1) will include but not limited to the following:
 - (a) Establishing a means of ensuring that waste is collected, reused, recycled or disposed of without causing harm to human health or damage to the environment and, in particular, without risk to water, air, soil, plants or animals; causing nuisance through noise or odours; or adversely affecting rural or urban areas or areas of special interest;
- (3) The Plan contemplated in subsection (1) must be establishing an integrated network of waste handling and waste disposal facilities to ensure that:
 - (a) comprehensive and adequate waste services are rendered within the Municipality;
 - (b) the disposal of waste occurs at accessible waste disposal facilities of which currently the municipality is using Umzimkhulu municipality dumping facility; and
 - (c) the most appropriate methods and technologies are used in order to ensure a high level of protection for and prevention of damage to the environment and harm to human health;
 - (d) encouraging the minimisation or reduction of waste;
 - (e) promoting the recovery of waste by means of recycling or re-use through proven alternative technology; and
 - (f) any other object which would enhance sustainable development.

7. 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
- (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

8. The Municipality's Service

- (1) The Municipality shall provide a service for the collection and removal of business and domestic refuse from **premises at the tariff, charges, fees or any other moneys payable as determined by council in terms of the local Government Systems Act, Act 32 of 2000**
- (2) The occupier/s and or owner/s of premises on which business or domestic refuse is generated shall; subject to the proviso to section 17 (1) (a), use the Municipality's service for the collection and removal of all such refuse except in cases where special exemption is granted.
- (3) **The owner/s and or occupier/s of the premises on which the business or domestic refuse is generated shall be liable individually or jointly to the Municipality for the tariff charge, where applicable, in respect of the collection, removal and disposal of business and domestic refuse from such premises and all moneys payable to the Municipality must be paid with the understanding that where the Municipality renders a service whether the service is used or not the owner/s and or occupier/s shall still be responsible for payment of the applicable tariffs, jointly or individually.**
- (4) The owner/s and or occupier/s in respect of individual premises held on the Sectional Title Register opened in terms of the section 5 of the Sectional Titles Act, 1986, on which business or domestic refuse is generated shall be liable individually to the Municipality for the tariff charge in respect of the collection, removal and disposal of business or domestic refuse from such premises and all moneys payable to the Municipality must be paid with the understanding that where the Municipality renders service whether the service is used or not the owner/s and or occupier/s still be responsible for payment of the applicable tariffs jointly or individually.
- (5) The Municipality reserves the right to review such tariffs contemplated in sub-section (1) on an annual basis.
- (6) **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.**

10, Notice to the Municipality

- (1) **The occupier and or owner or in the case of more than one, the occupiers and or owners of a premises, on which business, refuse or domestic refuse is generated shall within**

seven days after the commencement of the generation of such refuse notify the Municipality in writing:

(a) That the premises are being occupied; and

(b) Whether business refuse or domestic refuse or both the aforementioned is being generated on the premises.

(2) Where the category or purpose of waste change it is the responsibility of the occupier (s) and/or owner (s) to inform the municipality in writing on or before the day of change, that the service delivery should change or be ceased subject to the circumstances and that the tariff change be amended accordingly.

11. Private Refuse Removal Services

(1) Shall only be applicable in instances where the municipality is not in a position to deliver the refuse removal service or where special written exemption is granted according to the specified criteria.

(2) All contractors removing garden refuse, Health Care Risk Waste and hazardous waste from premises within the Municipal area, shall register with the Municipality in terms of Chapter 6 below. No service may be conducted without prior registration.

12. Delivery of bins or containers

(1) After notification in terms of section 10, the Municipality shall, after investigation, determine the number of refuse bin/container required on such premises.

(a) The owner/s and or occupier/s of such residential premises shall be responsible for the supply of the predetermined number and type of refuse bins as required by the Council from time to time;

(b) Refuse bins will be supplied by the Municipality when possible on request at ruling prices;

(c) The owner/s and or occupant/s of such premises will be supplied with the predetermined number and type of refuse bin/s or containers as required by the Municipality from time to time.

(2) The owner or occupier/s shall be liable to Municipality for the tariff charge in respect thereof:

(a) From the date of delivery of the refuse bin/container of such premises and/or as prescribed in the tariff policy;

(b) Until the day of canceling the service after notifying the Municipality in writing of such steps and after the Municipality is of the opinion that the services can be terminated or lesser number of refuse bin/container is required;

(c) Municipality's records serving proof of such delivering or removal;

(d) The provisions of this section shall apply mutatis mutandis on owners utilizing private owned refuse bin/container.

(3) The Municipality may at any time after the delivery of refuse bins/containers in terms of subsection

- (1) remove some of the refuse bins/containers or deliver additional refuse bins/containers if, in its opinion, a greater or lesser number of refuse bin/containers is required on the premises.
- (4) The Municipality may deliver mass waste containers to premises if, having regard to the quantity of refuse generated on the premises concerned, the sustainability of such refuse for storage in containers, and the accessibility and adequacy of the space provided by the owner/s and or occupier/s of the premises in terms of section 14, to the refuse collection vehicles, It considers mass waste containers more appropriate than standard waste containers for the storage of the refuse.
- (5) The provisions of these by-laws dealing with refuse containers delivered to premises for the storage of refuse in terms of subsections (1) and (3) shall apply mutatis mutandis in respect of mass waste containers delivered to premises in terms of subsection (4).
- (6) The owner/s and or occupier/s of any premises shall keep the contents of the refuse bin/container or other approved waste container covered at all times (save when refuse is being deposited therein or discharged there from).
- (7) The Municipality shall remain the owner of the refuse containers, or other approved containers delivered by it in terms of subsections (1) and (4).

13. Collection and transportation

(1) The Municipality may:

- (a) only collect waste stored in approved receptacles;**
- (b) set collection day(s) of the week;**
- (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.**

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

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

- (3) In the absence of evidence to the contrary which raises a reasonable doubt, a person who is in control of a vehicle, or in a position to control the use of a vehicle, that is used to transport waste for the purpose of offloading that waste, is considered to knowingly cause that waste to be offloaded at the location where the waste is deposited.
- (4) A person who is in control of a vehicle, or in a position to control the use of a vehicle, that is used to transport waste for the purpose of offloading that waste, is guilty of an offence if that person:
- (a) fails to take all reasonable steps to prevent spillage of waste or littering from the vehicle;
 - (b) intentionally or negligently cause spillage or littering from the vehicle;
 - (c) dispose of waste at a facility which is not authorised to accept such waste;
 - (d) fails to ensure that waste is disposed of at a facility that is authorised to accept such waste.

14. Storage and receptacle 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) **The owner/s and or occupier/s of the premises shall provide an approved space of adequate size and any other facilities considered necessary by the Waste Management Officer on the premises for the storage of the bins/containers delivered by the Municipality in terms of section 12 or for the equipment and containers mentioned in section 18. Minimum floor areas include, but not limited to:**
- (a) for 1.75m³ refuse containers, a minimum floor area of 4.5m²;**
 - (b) for 240litre and 85litre bins, a minimum floor area of 1m² is required**
- (3) The space provided in terms of subsection (2) and the storage of waste shall:
- (a) be in such a position on the premises as to allow the storage of refuse bins/container without then being visible from the street, a public space, or any other premises except if determined otherwise by Municipality;
 - (b) on agreed collection date, the receptacle(s) should be placed outside the premises in an area accessible to the municipal officials or service providers before 07:00 in the morning;
 - (c) where business refuse is generated on the premises be in such a position as will allow the collection and removal by the Municipality's employees without hindrance;
 - (d) business refuse bins/containers be so located as to permit convenient access to and egress from such space for the Municipality's refuse collection vehicles; and
 - (e) business refuse bins/containers be sufficient to house all refuse, including the materials and any containers used in the storage and the refuse contemplated in section 17 (1) (a) and 18 (6);
 - (f) where domestic refuse is generated on a premises the refuse plastic linings with refuse therein must be properly tied and be placed outside the fence or boundary of the premises on the street boundary or on any such other place as determined by the Municipality but will only be collected in a defined area and on a specific day as determined by Municipality;

- (g) where domestic refuse is generated on a premises which contains coal ashes, the standard waste container with the refuse therein must be properly placed just inside the fence or boundary of the premises or on any such place as determined by Municipality but will only be collected in a defined area on a specific day as determined by Municipality;
 - (h) prevent pollution and/or harm to the environment, as well as avoiding nuisance such as odour, visual impacts and breeding of vectors;
 - (i) be such that tampering by animals is prevented;
 - (j) ensure waste cannot be blown away and that the receptacle is covered or closed and suitable measures are in place to prevent accidental spillage or leakage;
 - (k) be in a receptacle that is intact and not corroded or in any other way rendered unfit for the safe storage or transportation of the waste; and 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;
 - (l) the owner/s and or occupier/s of the premises shall ensure that a receptacle(s) provided by the Municipality is not used for any other purpose other than that of storage of waste;
 - (m) waste is only collected by the Municipality or authorised service provider.
- (4) The owner/s and or occupier/s of premises shall place or cause the refuse bins/containers delivered in terms of section 12 to be placed in the space provided in terms of subsection (1) and shall at all times keep it there.
- (5) Notwithstanding anything to the contrary in subsection (3) contained:
- (a) In the case of buildings erected, or buildings the building plans whereof have been approved, prior to the coming into operation of these by-laws; and
 - (b) In the event of the Municipality, in its opinion, being unable to collect and remove refuse from the space provided in terms of subsection (1).
- (6) The Municipality may, having regard to the avoidance of nuisance and the convenience in collection of refuse, indicate a position within or outside the premises where the refuse bins/containers shall then be placed in such position at such times and at such period as the Municipality may require.

15. Access to premises

- (1) Where the Municipality provides a refuse collection service, the owner/s and or occupier/s of the premises shall grant the Municipality access to the premises for the purpose of collecting and removing refuse and shall ensure that nothing obstructs frustrates or hinders the Municipality in the carrying out of its service.**
- (2) Where in the opinion of the Municipality the collection or removal of refuse from any premises is likely to result in damages to the premises or the Municipality's property, or injury to the refuse collectors or any person, if any, as a condition of rendering refuse collection service in respect of the premises, require the owner/s and or occupier/s to indemnify it in writing in respect of any such damage or injury or any claims arising out of either.
- (3) The owner must, on request, allow a duly authorised employee of the Municipality access to their property for the purpose of inspecting the property and investigating any contravention of this By-law and to ensure compliance therewith. When accessing the property the authorised employee

must, on request, identify him or herself by producing written proof of such authority.

16. Refuse container liners

- (1) In order to facilitate the collection of refuse, the Municipality may require refuse container liners be used for the storage of such refuse in containers and the owner/s or occupier/s shall not place any refuse in such containers without using a refuse container liner, with the exception where other approved containers are utilized.
- (2) The owner/s and or occupier/s of premises where refuse containers are not provided, with the exception where mass waste containers are being used, shall place or cause the full refuse container liner properly tied up, to be placed just outside the fence or boundary of the premises on the street boundary or in any such other place as determined by the Municipality before 07:00 on the day on which refuse is collected in the particular area.
- (3) The full refuse container liner placed in accordance with subsection (2) shall be undamaged.
- (4) Only refuse container liners approved by the Municipality may be used.

17. Use and care of refuse containers

- (1) **The owners and or occupiers of premises to which refuse bins/ containers have been delivered by the Municipality in terms of section 12, or where containers are supplied by the owner/s and or occupier/s shall ensure that:**
 - (a) **All the domestic or business refuse generated on the premises shall be placed and kept in such refuse bins containers for removal by the Municipality; Provided that the provisions of this subsection shall not prevent any owner/s and or occupier/s who has obtained the Municipality's prior written consent from selling or otherwise disposing of any swill, corrugated cardboard, paper, glass or other material for recycling in a manufacturing process or, or in the case of swill, for consumption;**
 - (b) Not hot coal ash, unwrapped glass or other business or domestic refuse which may cause damage to refuse bins/containers or refuse bin/container liners or which may cause injury to the Municipality's employees while carrying out their duties in terms of these by-laws, shall be placed in refuse bins/containers before suitable steps have been taken to avoid such damage or injury.
 - (c) No material, including any liquid, garden waste and/or building rubble which; by reason of its mass or other characteristics is likely to render such refuse bins/container or refuse bin/container liners unreasonably difficult for the Municipality's employed to handle or carry, shall be placed in such refuse bins/containers; and
 - (d) Every refuse bin/container on the premises shall be covered with a suitable lid save when refuse is being deposited therein or discharges therefrom, and every refuse container shall be kept in a clean and hygienic condition.
 - (e) Where returnable receptacles are in use, household members must mark his or her receptacle to assist the service provider/municipality in returning the receptacle to the same household from where it is collected.

- (2) **No refuse bin/container so delivered in accordance with section 12, may be used for any purpose other than the storage or business refuse and no fire shall be lit in such container.**
- (3) **The refuse bin/containers so delivered in accordance with section 12, may be emptied by the Municipality at such intervals as the Municipality may deem necessary.**
- (4) In the event of a mass waste container having been delivered to premises in terms of section 12 (4), the owner/s and or occupier/s of such premises shall, 24 hours before the container is likely to be filled to capacity, inform the Municipality thereof.
- (5) The owner/s and or occupier/s or premises to which refuse bins/containers were delivered in terms of section 12 (1) (d), or to which containers were delivered in terms of section 18, shall be liable to the Municipality for the loss thereof and for all damage caused thereto except for such loss or damage as may be caused by the employees of the Municipality.

18. Compaction of Refuse

- (1) Should the quantity of business refuse generated on premises be such as to require the daily removal of more than the equivalent of a mass waste container and should, in the opinion of the Municipality, the major portion of such refuse be compactable, or should the owner/s and or occupier/s of premises wish to compact any volume of such refuse, such owner/s and or occupier/s, shall compact that portion of such refuse as is compactable and shall put it into an approved container or wrapper, and the provision of section 14 shall not apply to such compactable refuse, but shall apply to all other refuse.
- (2) The capacity of the wrapper mentioned in subsection (1), shall not exceed 85 litres and the mass of the wrapper and contents shall not exceed 35 kilograms.
- (3) After the refuse, treated as contemplated in subsection (1), has been put into the wrapper, it shall be placed in the refuse container or other approved container and shall be stored so as to prevent damage to the wrapper or any nuisance arising until collected.
- (4) The containers or wrappers mentioned in subsection (1) shall be supplied by the owner/s and or occupier/s of the relevant premises.
- (5) (a) Any container used in terms of subsection (1) shall be collected, emptied and returned to the premises by the Municipality at such intervals as it may deem necessary.
- (b) The owner/s and or occupier/s of the premises shall prepare the container for collection and reconnect it to the compaction equipment forthwith after its return by the Municipality to the premises.
- (6) The provisions of this section shall not prevent any owner/s and or occupier/s of premises who has obtained the Municipality's prior written consent, from selling or otherwise disposing, or any swill, corrugated cardboard, paper, glass or other material for recycling in a manufacturing process or, in the case of swill, for consumption.
- (7) "Approved", for the purpose of subsection (1), shall mean approved by the Municipality, with regard being had to the fitness of the container or wrapper for its purpose, and also the

reasonable requirements of the particular case from the point of view of public health, storage, refuse removal or refuse disposal.

19. Waste transfer stations

(1) **Any holder of waste must:**

- (a) **utilise appropriate waste transfer stations as directed by the Municipality or service provider;**
- (b) **adhere to the operational procedures of a transfer station as set out by the Municipality.**

20. Waste disposal

- (1) Waste generated in the municipal area must be disposed of at a waste disposal facility as directed by the Municipality (Umzimkhulu municipality dumping site).
- (2) In disposing of waste the operator of the site must comply with the provisions of any other legislation regulating the disposal of waste.

22. The Municipality's special garden services.

- (1) **At the request of the owner/s and or occupier/s and after payment of the tariff charge the Municipality shall provide bulk volume mass waste containers for removal of garden refuse from premises: provided that the Municipality is able to do so with its refuse removal equipment.**
- (2) The bulk volume mass container will be delivered to the premises as requested by the applicant and the bulk volume mass container will be placed on the pavement for a predetermined period of time as determined by the Manager Community Services.
- (3) At the request of the owner/s and or occupier/s or manager of the premises the Municipality may provide a special service for the removal of refuse at the prescribed tariff as determined by Municipality from time to time.

CHAPTER 4: RECYCLING OF WASTE

23. Storage, separation and collection of recyclable 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.
- (4) In cases where the Municipality, or industry has provided separate receptacles for recyclable material, no person may use other receptacles for recyclable material.

CHAPTER 5: WASTE INFORMATION

24. 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 of activity to register and report to the Municipality any other information for the purpose of facilitating effective waste management within its jurisdiction.

CHAPTER 7: LISTED WASTE MANAGEMENT ACTIVITIES

28. 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 sub section (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

29. 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.

30. 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 (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.**
- (3) If the provisions of subsection (1) are contravened, the Manager Community Services may direct, by way of a written notice to persons that:**
- (a) they cease the contravention, in a specified time;**
 - (b) they prevent a further contravention or the continuation of the contravention;**
 - (c) take whatever measures the Manager Community Services considers necessary to clean up or remove the waste, and to rehabilitate the affected facets of the environment, to ensure that the waste and any contaminated material which cannot be cleaned or rehabilitated is disposed of lawfully.**
- (4) The Manager Community Services may in respect of the notice contemplated in subsection (3)(c) state that the person must, within a maximum of 5 working days remove the waste or litter, provided the Manager Community Services may grant a further 2 days, on request of the person, to remove the litter or waste.**

- (5) A person who owns land or premises, or who is in control of or has a right to use land or premises, may not use or permit the use of the land or premises for unlawful dumping of waste and must take reasonable steps to prevent the use of the land or premises for that purpose.**
- (6) If the Municipality elects to remove the waste or litter the person concerned shall be liable for the cost of such removal operation.**
- (7) In the case of hazardous waste, the Municipality shall immediately remove same and thereafter issue notices that the person concerned is liable for the cost of the removal and rehabilitation of the area.**

31. 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);**
 - (c) the Municipality may, by written notice, instruct any holder of waste at their own cost; to clean any waste causing nuisance to any person or the environment;**
 - (d) failure to comply to the notice contemplated in subsection (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.**

32. 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.**

33. Unauthorised disposal/dumping

- (1) No person may:**
 - (a) 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 an 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) Once it has been alleged that a person has left an item or allowed an item to be left at a place which he is not the owner/s and or occupier/s, he shall be deemed to have contravened the provisions of subsection (1) until the contrary is proved.

34. 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 Municipality, without authorisation as it may deem fit.
- (3) Where anything has been removed and disposed of by the Municipality in terms of subsection (1) and (2) the person responsible shall be liable to pay the Municipality the tariff charged in respect of such disposal.
- (4) For the purposes of subsection (3) the person responsible shall be:
- (a) The last owner of the thing, before it was collected by the Municipality, and shall include any person who is entitled to be in possession of the thing by virtue of a purchase agreement or an agreement of lease at the time when it was abandoned or put in the place from which it was so removed unless he can prove that he was not concerned in and did not know of it being abandoned or put in such a place: or
 - (b) Any person by whom it was put in the place aforesaid: or
 - (c) Any person who knowingly permitted the putting of the thing in the place aforesaid.

35. Liability to pay applicable tariffs

- (1) The owner or occupier (s) 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.
- (4) **Tariff charges** prescribed shall become due and payable on the same date as the general assessment rate levied, provided that if such tariff charges are increased, any unpaid balances owing to the council on the total amended charges will be due and payable to the council on demand.

- (5) **Any person who fails to pay the tariff charge in respect of services rendered by the council in terms of this by – laws will be subject to the councils credit control and debt collection by – law and be guilty of an offence.**

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

- (1) The removal and disposal of garden refuse is mainly done by the owner and /or occupier of the property or private persons.
- (2) 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.
- (3) 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.
- (4) The Municipality may as far it is reasonably possible, direct any transporter of garden waste or any person providing garden maintenance services, to transport their garden waste to a designated transfer station or facility provided by the Municipality.
- (5) At the written request of the owner or occupier of premises the Municipality or service provider may, in its sole discretion, deliver an appropriate receptacle for the purpose of storing garden waste in addition to any approved receptacle delivered to the premises for the storage of domestic waste; at a prescribed additional tariff.

38. Collection and disposal bulky waste

- (1) Any person generating bulky waste must ensure that such waste is collected and recycled or disposed of at a designated facility and may not put such waste as part of the municipal routine collection.
- (2) At a request of the owner or occupier of any premises, the Municipality may remove bulky waste from premises at a prescribed tariff provided that the Municipality is able to do so with its refuse removal equipment.

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

- (1) The owner or occupier of premises on which building waste is generated and person conducting an activity which causes such waste to be generated must ensure that:
 - (a) all building waste generated is disposed of at an authorized facility, and the costs thereof will be for the account of the owner/ occupier of the premises
 - (b) 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;
 - (c) the premises on which the building waste is generated does not become unsightly or cause a nuisance as a result of accumulated building waste;
 - (d) any person who directly or indirectly generates building waste or the owner of the property on which such building waste is generated shall not store such waste in containers provided by the Municipality for residential waste; and

- (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 or alternative allocated area outside the premises for the period of such consent.
- (5) Any consent given in terms of subsection (4) shall be subject to such conditions as the Municipality may consider necessary. The Municipality may determine a charge for any such consent.
- (6) Every receptacle, authorised in terms of subsection (3) 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.
- (7) 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.
- (8) 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.
- (9) A consent given in terms of subsection (7) shall be subject to the conditions as the Municipality may deem necessary.
- (10) Contaminated building or other waste where the contamination agent is hazardous or dangerous must be deposited at a licensed waste disposal facility for the treatment and disposal of hazardous waste.

CHAPTER 9: SPECIAL INDUSTRIAL, HAZARDOUS OR HEALTH CARE RISK WASTE

40. Notification of generation of special industrial, hazardous, medical and infectious refuse

- (1) A person engaged in an activity which causes special industrial hazardous, medical or infectious refuse to be generated, shall notify the Municipality with seven days of such generation of the composition thereof, the quantity generated method of storage, the proposed duration of storage, and the manner in which it will be removed.
- (2) If so required by the Municipality, the notification referred to in subsection (1) shall be substantiated by an analysis certified by an appropriately qualified industrial chemist.

- (3) Subject to the provisions of section 72 of the Local government Ordinance, 1939, the Municipality or any person duly authorised by the Municipality may enter premises at any reasonable time to ascertain whether special, Industrial, hazardous medical or infectious refuse is generated on such premises and may take samples and test any refuse found on the premises to ascertain its composition.
- (4) Having notified the Municipality in terms of subsection (1), the person referred to in subsection (1) shall notify the Municipality of any changes in the composition and quantity of the special industrial, hazardous, medical or infectious refuse occurring thereafter.

41. Storing of special industrial, hazardous, medical and infectious refuse.

- (1) The person referred to in section 40 (1) shall ensure that the special industrial, hazardous, medical or infectious refuse generated on the premises is kept and stored thereon in terms of section 40 (1) until it is removed from the premises in terms of section 42.
- (2) Special industrial, hazardous, medical or infectious refuse stored on premises shall be stored in such manner that it cannot become a nuisance, safety hazard or pollute the environment.
- (3) If special industrial, hazardous, medical or infectious refuse is not stored in terms of subsection (2) on the premises on which it is generated the Municipality may order the owner/s and or occupier/s of the premises and or the person referred to in section 40 (1) to remove such refuse within a reasonable time and, if thereafter such refuse is not removed within such time, the Municipality may itself or through any person remove it at the owner/s and or occupier/s expense or the expense of the person referred to in section 40 (1), or both, as the case may be.
- (4) Hazardous, medical or infectious refuse shall be stored in a container approved by the Waste Management Officer and such container shall be kept in an approved storage area for a period not exceeding the maximum period to be stipulated by the WMO before removal in terms of section 42.
- (5) The containers for medical and infectious waste must comply with the following minimum requirements:
 - (a) All infectious waste must be placed at the point of generation into a container approved by the Municipality;
 - (b) The container used for the storage of sharp objects must be constructed of such a material that the object cannot pierce the container. The container must be fitted with a safe and hygienic lid which must be sealed after use;
 - (c) The container used for the removal of other contagious materials has to be after manufactured of a material which will prevent the contents from leaking out. The container has to be equipped with a safe and hygienic lid, and has to be sealed after utilisation; and
 - (d) All containers must be clearly marked with the universal bio-hazardous waste symbol.

42. Removal/transportation of special industrial hazardous, medical and infectious refuse.

- (1) (a) No person may, without or not in accordance with the Municipality's written approval of conditions , remove special, hazardous, medical and infectious refuse from a premises at

which it has been generated.

- (b) Hazardous, medical or infectious refuse may only be transported in accordance with the requirements of the Waste Management Officer with the focus on 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 refuse.
- (2) The person referred to in section 40 (1) shall inform the Municipality at such intervals as the Municipality may stipulate, having regard to the information to be given to the Municipality in terms of that section, of the removal of special industrial, hazardous, medical or infectious refuse, the identity of the remover, the date of such removal, the quantity and the composition of the special industrial, hazardous, medical or infectious refuse removed.
- (3) No person shall dispose of any infectious refuse by incinerating it unless the Accounting Officer's prior written permission has been given to incinerate such refuse.
- (4) Should any person be convicted of contravening the provisions of this section, such person shall in addition to any penalty imposed on him, dispose of the refuse as directed by the Municipality, or the Municipality or any approved contractor may dispose of such refuse and recover the costs from such person.
- (5) The Municipality shall provide a service for the collection and removal of medical refuse from the premises at the Tariff Charge as prescribed in the Tariff of Charges for Collection and Removal of Refuse and Sanitary Services. A person engaged in an activity which causes medical refuse to be generated shall use the Municipality's service for the collection and removal of all such refuse except in cases where special exemption is granted. The service will be available under the following conditions:
- (a) The medical waste container remains the property of the Municipality.
- (b) Once the medical waste container is delivered by the Municipality to the user, the onus is placed on the user to ensure the safety of the medical waste container.
- (c) No lettering, sign, insignia, advertisement or other device may be placed on the medical waste container by the user.
- (d) The user must ensure that the medical waste container is stored in a cool, dry and well ventilated room, with hygienic, clean and neat conditions.
- (e) The user must ensure that the full medical waste container is properly sealed and closed prior to the collection thereof by the Municipality.
- (f) The user may not overload or overfill the medical waste container.
- (g) The user must ensure that the new container is received and returned in an undamaged condition after usage.
- (h) The medical waste container must be used strictly in accordance with the following prescriptions:
- i. The medical waste container to be used for sharps and/or broken glass may be used solely for this purpose.
- ii. The swabs medical waste container may be used solely for bandaged etc (needles, glass, sharps etc can penetrate the cardboard, thus it is not permissible to place such objects in the cardboard containers).
- (i) The user is responsible for ensuring that the containers are used in accordance to paragraph

- (h). Should it come to light that the user did not place the medical waste in the correct container and an incident occurs, the user will be held liable.
 - (j) The user must ensure that any waste products that consist of blood and/or body fluids are placed in a sealed plastic container with a plastic lining specially supplied for this purpose to prevent any leakages. These containers are available from the Municipality on special request.
- (6) 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 10: ADMINISTRATIVE MATTERS COMPLIANCE AND ENFORCEMENT

43. Compliance notices

- (1) The Accounting Officer may issue notices to any person contravening the provisions of this By-Law:
- (a) setting out the provisions or conditions contravened;
 - (b) directing such person to comply with such provisions or conditions; and
 - (c) setting out the measures which must be taken to rectify the contravention, and the period in which he or she must do so.
- (2) If a person fails to comply with directions given in a notice issued by the Accounting Officer, the Accounting Officer may:
- (a) take whatever steps it considers necessary to clean up or remove waste, to rehabilitate the premises, place or the affected environment at which the waste has been illegally dumped or stored and to ensure that the waste, and any contaminated material which cannot be removed, cleaned or rehabilitated, is disposed of lawfully;
 - (b) recover the costs of cleaning, removing, rehabilitating or disposing waste, premises or environment, or contaminated material, respectively, from the persons obliged to take such steps in terms of this By-Law, who shall be jointly and severally liable therefore.
- (3) The Municipality may, in the case of hazardous or priority waste, require the persons generating such waste to close until such time as steps are taken to dispose of the waste in terms of subsection
- (2) if there is a real threat of damage or injury to any person or property.
- (4) The following persons may be served with such notice:
- (a) any person who committed, or who directly or indirectly permitted, the contravention;
 - (b) the generator of the waste;
 - (c) the owner of the land or premises where the contravention took place;
 - (d) the person in control of, or any person who has or had, at that stage of the contravention, a

right to use the land or premises where contravention took place.

44. Service of documents and process

- (1) Whenever any notice, order, demand or other document is authorised or required to be served on a person in terms of this By-law, it shall be deemed to have been effectively and sufficiently served on such a person:
 - (a) when it has been delivered to him or her personally;
 - (b) when it has been left at his or her place of residence or business with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to his or her last known residential or business address and an acknowledgement of posting thereof is produced;
 - (d) if his or her address is unknown, when it has been served on his or her agent or representative in a manner provided for in paragraph (a), (b) or (c); or
 - (e) if his or her address and agent are unknown, when it has been posted in a conspicuous place on the immovable property, if any, to which it relates.

45. Failure to comply with the By-law and enforcement

- (1) If the Accounting Officer has issued a compliance notice in terms of section 43 to anyone for contravening any provision of this By-law and such person fails to comply with such notice he or she shall be guilty of an offence.
- (2) The Accounting Officer may in writing require any person to submit a report to him or her in respect of the impact of waste in a specified form as stipulated in the Municipality's guidelines as published from time to time.
- (3) If the person fails to submit such a report within the period specified, the waste management officer may appoint an independent person to compile the report and recover the costs of compiling the report from the person required to submit it.
- (4) If the Accounting Officer suspects that the person has on one or more occasion contravened or failed to comply with the By-law or a license issued in terms of provincial or national legislation and this has had a detrimental effect on the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage or has contributed to the degradation of the environment, the waste management officer may direct that such a report be compiled by an independent person.
- (5) The Accounting Officer may then direct the person who failed to comply with the By-Law to take the action recommended in such report, failing which the Municipality may do so, and the person who contravened the By-Law shall be liable for the cost thereof.

46. 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.

47. 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.

48. Offences and penalties

(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) induce, influence, persuade or force an employee of the Municipality or other person to commit an offence in terms of this By-law;**
- (c) induce an employee of the Municipality to collect and dispose of waste without the correct payment to the Municipality, or the correct methods being employed;**
- (d) contravenes or fails to comply with any provision of these by-laws; or**
- (e) 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 and liable upon conviction to a fine not exceeding R5 000 or to a period of imprisonment not exceeding 6 months or both or in the event of a continued offence a further fine of R500 for every day during the continuance of such offence.

- (2) Any waste generator who fails to submit or comply with an integrated waste management plan in terms of this By-law shall be guilty of an offence.
- (3) The court may in addition to any penalty imposed in terms of subsection (1), order a person to repair the damage, make good the loss, rehabilitate the environment, remove waste, or determine what measures must be taken by such person and the payment of the expenses incurred in respect thereof or any other costs or damages.
- (4) The Court may, when considering any sentence for an offence in terms of this By-Law, take into account the following:

- (a) that a person delayed in complying with or failed to comply with the terms of notices or directions given to that person under this By-law;
- (b) that person obtained a financial advantage or was to obtain a financial advantage as a result of the commission of the offence;
- (c) the severity of the offence in terms of its impact or potential impact on health, wellbeing, public safety and the environment.

49. Short title and commencement

- (1) These By Laws are called the Waste Management (recycling)By-Laws, of the Ubuhlebezwe Local Municipality, and takes effect on the date determined by the Municipality in the provincial gazette.
- (2) Different dates may be so determined for different provisions of this By Laws.

50. Repeal of By-laws

- (1) Any By Law relating to waste management or recycling or refuse removal or disposal within the Ubuhlebezwe 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 this By Law.