

LOCAL AUTHORITY NOTICE 216**LEPHALALE LOCAL MUNICIPALITY
WASTE MANAGEMENT BY-LAW**

The Municipal Manager of Lephalale Local Municipality hereby in terms of section 13(a) of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) publishes the Waste Management By-Law for the Municipality as approved by its Council, as set out hereunder.

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1. Definitions

In this by-laws, unless the contents otherwise indicates, any word or expression to which a meaning has been assigned in the National Environment Management Act, shall bear the same meaning –

“**approved**” in the context of bins, bin liners, containers, receptacles and wrappers, means approved by the municipality or a licensee for the collection and storage of waste;

“**authorised official**” means an official who has been authorised by the municipality to perform and exercise any or all of the functions and powers specified in and subject to the provisions of this by-law;

“**bin**” means an approved receptacle for the storage of less than 1,5 cubic metres of waste, which may be supplied by the municipality to premises in terms of this by-law;

“**building waste**” means 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 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 a licensee;

“**commercial services**” means any service, excluding municipal services, relating or connected to accumulating, collecting, managing, recycling, sorting, storing, treating, transporting, disposing, buying or selling of waste or any other manner of handling waste;

“**commercial waste**” means solid waste generated on premises used for non-residential purposes such as office buildings, stores, markets, theatres, hotels, warehouses, industrial operations and manufacturing processes, which are occupied by wholesale, retail, institutional, or service establishments, and includes waste generated by office workers or employees of the establishments;

“**container**” means an approved receptacle having a capacity greater than 1,5 cubic metres for the temporary storage of waste in terms of this by-law;

“**Council**” means the Council of the Lephalale Local Municipality;

“council services” means a municipal service relating to the collection of waste, provided exclusively by Council in accordance with the provisions of the Municipal Systems Act, 2000 (Act 32 of 2000) and this by-law;

“DEAT” means the Department of Environment and Tourism;

“domestic waste” means waste such as dust, ash, rubbish or other refuse arising or incidental to the normal occupation of premises ;

“DWAF” means the National Department of Water Affairs and Forestry;

“garden waste” means waste generated as a result of normal domestic gardening activities, including grass cuttings, leaves, plants, flowers and other similar small and light organic matter, but does not include tree branches with a diameter thicker than 40 mm at any point of its length, or any other category of waste or waste generated as a result of garden service activities;

“garden service” means the provision of gardening services by a licensee, including the cutting of grass, pruning of trees or any other horticultural activity including landscaping, to any domestic, business, commercial or industrial premises;

“household bin” means an approved receptacle for the storage of 240 litres of domestic waste, which may be supplied by the municipality to premises in terms of this by-law;

“hazardous waste” means waste containing or contaminated by poison, a corrosive agent, a flammable substance having an open flash-point of less than 90° C, an explosive, radioactive material, a chemical or any other waste that has the potential even in low concentrations to have a significant adverse effect on public health or the environment because of its inherent toxicological, chemical and physical characteristics;

“industrial waste” means waste generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities, but does not include any other category of waste such as building waste or domestic waste;

“level of service” means the frequency of municipal service and the type of service point;

“litter” means any object or matter which is discarded by a person in any place except in an approved receptacle provided for that purpose or at a waste disposal or processing facility;

“medical waste” means waste generated by a hospital, clinic, nursing home, doctor's offices, medical laboratory, research facility, dental practitioner, medical practitioner, and veterinarian and which are infectious or potentially infectious;

“municipality” means the Lephalale Local Municipality, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

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

“occupier” means any person in actual occupation of premises or part thereof without regard to the title under which he or she occupies

“owner” means –

(a) a person in whom the legal title to a premises is vested;

- (b) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in the case where the municipality is unable to determine the identity of the person in whom a legal title is vested, the person who is entitled to the benefit of such premises or a building thereon;
- (d) in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
- (e) in relation to –
 - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), and without restricting the above, the developer or the body corporate in respect of the common property; or
 - (ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;
- (f) any legal person including, but not limited to –
 - (i) a company registered in terms of the Companies Act, 1973 (Act 61 of 1973), Trust inter vivos, Trust mortis causa, a Closed Corporation registered in terms of the Closed Corporation's Act, 1984 (Act 69 of 1984), a voluntary association;
 - (ii) any Department of State;
 - (iii) any Council or Board established in terms of any legislation applicable to the Republic of South Africa;
 - (iv) any Embassy or other foreign entity; or
- (g) a lessee of municipal property, who will be deemed to be the owner for the purposes of rendering a municipal account;

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

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

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

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

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

"resident" means, in relation to the municipality, a person who is ordinarily resident in the municipal area;

"solid waste" means waste of a solid nature generated by a person or business

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

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

"tariff" means tariff imposed by the municipality in its tariff policy;

"the act" means National Environmental Management Act;

"waste", means an undesirable or superfluous by-product, emission, residue or remainder of any process or activity, any matter, gaseous, liquid or solid or any combination thereof.

"waste collector" means a person who is registered under the provisions of this by-law as a waste collector;

"waste disposal or processing facility" means any facility or site which receives waste for disposal thereof, and which is operated in terms of a permit obtained from DEAT or any other competent authority or where such a facility is an incinerator, registration or such permission as is required by law and includes waste transfer and recycling stations;

"waste handling charge" means a sum of money that is levied by the municipality on a producer of waste and which the producer must pay to the municipality;

"waste generator" means any person or firm that generates or produces waste;

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

"waste oil" means mineral or synthetic oil which is contaminated, spoiled or otherwise unfit for its original purpose; and

"waste transfer and recycling station" means a waste handling facility that receives and temporarily stores garden and bulky waste or any recyclable waste, or a combination of garden, bulky and recyclable waste;

2. Objectives of this by-law

- (1) The objectives of this by-law are to:
 - (a) provide for the effective delivery of the municipal service;



- (b) protect the environment by providing reasonable measures for -
- (i) ensuring that waste management, including the storage, collection, transportation, treatment and disposal of waste, is undertaken in a comprehensive and responsible manner;
 - (ii) minimising the consumption of natural resources;
 - (iii) the minimisation of the generation of waste;
 - (iv) the reuse and recycling of waste; and
 - (v) the safe disposal of waste.

2. Application of by-law

This by-law apply to all areas under the control of Lephalale Local Municipality and are limited to regulate the generation, storage and collection of solid, non-hazardous waste.

CHAPTER 2

WASTE MANAGEMENT PLANNING

4. Development of Waste Management Plan

- (1) The Municipality must include in its integrated development plan contemplated in Chapter 5 of the Systems Act, a waste management plan for its area of jurisdiction.
- (2) The Municipality may amend a waste management plan from time to time and must review a waste management plan at least every five years.

5. Contents of Waste Management Plan

- (1) The waste management plan must be consistent with any relevant provincial waste management plan and must –
 - (a) seek to –
 - (i) give effect to the objectives of this By-law;
 - (ii) identify and address the negative impact of poor waste management practises on health and the environment;
 - (iii) provide for the implementation of waste minimisation, recycling and re-use programmes;
 - (iv) provide for the delivery of waste management services to all residential and business premises;
 - (v) ensure that there are adequate disposal facilities for the disposal of waste;
 - (vi) identify measures that are required to give effect to the objects of this by-law;
 - (vii) ensure that members of the public have access to education and awareness initiatives on waste management matters; and
 - (viii) give effect to best environmental practice in respect of waste management.
 - (b) include such other matters as may be required by any other legislation; and
 - (c) describe how the Municipality will give effect to its waste management plan.

CHAPTER 3**WASTE INFORMATION SYSTEM****6. Establishment of waste information system**

1. The Municipality must establish and maintain a waste information system for the collection and management of information.
2. The waste information system must comply with the requirements of any national or provincial legislation regulating the collection and management of information on waste and may include information on –
 - (a) significant sources of waste generation;
 - (b) the quantity, type, characteristics and composition of waste generated, re-used, recycled, recovered, transported, treated and disposed of;
 - (c) the impacts of the generation, storage, re-use, recycling, recovery, treatment and disposal of waste on the environment;
 - (d) matters that are necessary for waste management planning and service delivery; and
 - (e) any other matter that is necessary for the purposes of administering an effective waste management system.

7. Purpose of waste information system

- (1) The purpose of the waste information system is to –
 - (a) record and provide data and information for waste management planning undertaken by the Municipality;
 - (b) monitor waste management generally;
 - (c) provide information to organs of state and the public –
 - (i) for education, research and development purposes;
 - (ii) for planning and the undertaking of environmental impact assessments;
 - (iii) for public safety and disaster management;
 - (vi) on the status of waste generation, transportation, treatment and disposal; and
 - (v) on the impacts of waste on the environment.



CHAPTER 4

PROVISION OF MUNICIPAL SERVICES

8. Duties and powers of municipality

- (1) The municipality as the primary service provider in the municipal area has a duty to the local community to progressively ensure efficient, affordable, economical and sustainable access to waste management services in its area or a part of its area.
- (2) This duty is subject to –
 - (a) the duty of members of the local community as users of the municipality's waste management services or any other person making use of the municipality's waste management services to pay, for the provision of the services, the prescribed charges, which must be priced in accordance with any nationally prescribed norms and standards for rates and tariffs; and
 - (b) the right of the municipality to differentiate between geographical areas when providing types of waste management services, without compromising on service equity in line with the Constitution.
- (3) The municipality must as far as is reasonably possible and subject to the provisions of this by-law provide, at a cost to users of the services prescribed by the municipality –
 - (a) for the collection of waste on a regular basis, except waste in its area, which is situated at a place which is so isolated or inaccessible that the cost of collecting it would be unreasonably high; and
 - (b) access to facilities for the recovery and disposal of waste.
- (4) The municipality must notify all users of its waste management services of any decisions taken in terms of this by-law.

9. Charges and fees

- (1) The occupier of premises must pay to the municipality the determined and prescribed rates and charges for the provision of waste management services and he or she is not entitled to exemption from the liability to pay the prescribed fee by reason of not making use of or making a partial or limited use of the municipality's waste management services, regardless of whether the municipality provides such services directly or through a licensee.
- (2) The prescribed fee becomes due and payable on a date as determined by the municipality.
- (3) Should a person fail to pay the fee on the date determined by the municipality, the municipality may apply the debt collection procedures.

CHAPTER 5**WASTE MANAGEMENT****Part 1****Categories of waste****10. Categories of waste**

(1) For the purposes of this by-law, waste is categorised as either –

(a) general waste, which consists of one or more of the following:

(i) Paper;

(ii) metals;

(iii) glass;

(iv) plastic;

(v) organic materials; and

(vi) inert materials, which includes builders rubble; or

(b) hazardous waste, as described in the DWAF Minimum Requirements documents or more recent guidelines.

(2) Within these two categories, waste is categorised according to its source namely:

(a) domestic;

(b) commercial; or

(c) industrial.

Part 2**General provisions relating to non-hazardous waste****11. Provision of receptacle for storage of waste**

(1) The owner of premises must provide on such premises at his or her own expense a sufficient number of portable, covered receptacles of a size and design approved by the municipality for the reception of the maximum quantity of waste that is likely to accumulate on the premises during any period of seven days.

(2) The municipality reserves the right to determine the size and types of receptacles to be used.

(3) The municipality may, where special receptacles are necessary, prescribe special receptacles for the reception and storage of such types of refuse as it may specify and may by written notice to be served on the occupier of premises require the occupier to provide at his or her own expense such number of special receptacles as are specified in the notice, and the occupier must forthwith comply with the notice.

- (4) Where any refuse receptacle provided on premises is –
- (a) of a size likely to hinder the efficient removal of refuse therefrom by the employees of the municipality;
 - (b) insufficient for the reception of all refuse which is to be removed from such premises by the municipality;
 - (c) dilapidated; or
 - (d) likely to cause a nuisance,
- the municipality may serve a written notice on the occupier of the premises requiring him or her to provide –
- (i) such number of receptacles; or
 - (ii) racks or other means of storing receptacles or packages or bundles of waste,
- as may be stated in the notice within a period stated therein being not less than 14 days from date of service of such notice, however the municipality may in the notice require or authorise in writing the provision of refuse receptacles of such different sizes or design as may be specified by the municipality where the prescribed standard receptacles would not be practical.
- (5) No person may dispose of any refuse by placing it anywhere else than in a receptacle or other container provided or approved by the municipality.
- (6) Where a receptacle is supplied free of charge, or at a hire tariff determined by the municipality, such receptacle remains the property of the municipality and the owner of the premises –
- (a) is liable to the municipality for the loss or damage to such receptacle; and
 - (b) must keep the said receptacle in a clean and sanitary condition.
- (7) The owner of the premises must ensure that any waste which is blown off the premises is promptly retrieved.
- (8) Every receptacle containing waste, except plastic bags, which is to be collected, must be clearly marked on it the name and telephone number of the person or company in control of the receptacle.

12. Location of receptacle

- (1) The occupier of premises must provide adequate space on the premises where a receptacle for the purpose of depositing waste or a specific category of waste, or packages or bundles of refuse required to be packed or bundled in terms of this by-law are kept and the place must –
- (a) comply with requirements imposed by the municipality by notice to the occupier;
 - (b) be constructed in accordance with the requirements of any applicable building regulations;
 - (c) be so located that the receptacle or racks are not visible from a street or public place;
 - (d) where applicable, be so located as to permit convenient access to and egress from such place for a waste collection vehicle; and

- (e) be in a location convenient for the use by users or occupants of the premises so as to discourage littering or the unhealthy accumulation of waste.
- (2) In the case of multi-storey buildings, the municipality may approve the installation of refuse chutes, subject to the submission and approval of the plans for such installation.
- (3) The occupier of premises must place or cause the receptacle to be placed in the space provided and must at all times be kept there.
- (4) In the event of the municipality or a licensee being unable to collect and remove waste from the space provided, the occupier may place the receptacle at a place stipulated by the municipality.

13. Standards which receptacles must meet

(1) The municipality may –

- (a) provide plastic bags or bins, which meet the standards set by national or provincial legislation; and
- (b) authorise the use of bins and lids constructed of rubber or other material where the design and construction meet the standards set by national or provincial legislation.

14. Maintenance of receptacle

- (1) The occupier of a premises must place the receptacle in which waste or a specific kind of waste or packages or bundles of refuse are required to be packed or bundled in terms of this by-law, in the space provided and must –
 - (a) at all times keep it there;
 - (b) take reasonable steps to ensure that a sufficient number of receptacles are provided on the premises for the discarding of waste; and
 - (c) ensure that the receptacle is –
 - (i) at all times be maintained in good order and repaired and in a clean and hygienic condition;
 - (ii) at all times suitably weighted and anchored so that it cannot be inadvertently overturned;
 - (iii) at all times on weatherproof and animal proof;
 - (iv) emptied and cleansed periodically or when full, so that its contents do not become a nuisance or provide grounds for complaint;
 - (v) kept close when waste is being deposited into it or discharged from it; and
 - (vi) protected against unauthorised disturbance or interference at all times when refuse is not being deposited into it or discharged from it.

15. Contents of receptacle

- (1) No material, including any liquid, which by reason of its mass or other characteristics is likely to render a receptacle unreasonably difficult for employees of the municipality to handle or carry, may be placed in a receptacle.

- (2) Organic waste such as food scraps and similar waste likely to rapidly decompose and cause a nuisance must, before being deposited in the receptacles, be sealed in a bag which is disposable and water-tight.
- (3) A receptacle provided by the municipality may not be used for any purpose other than the storage of waste.
- (4) No person may –
 - (a) light a fire in a receptacle;
 - (b) deposit in a receptacle burning or glowing coal, ashes or other burning material; or
 - (c) deposit in a receptacle any material that is likely to –
 - (i) cause damage to the receptacle;
 - (ii) cause injury to the municipality's employees while carrying out their duties; or
 - (iii) hinder or delay work by the municipality's employees undertaken in terms of this by-law,

unless suitable steps have been taken to avoid damage to the receptacle or injury to the municipality's employees collecting it or to the vehicle in which it is placed for removal.

- (5) Waste oil must be stored in leak proof metal, plastic or concrete containers, which are not subject to fire or accidental spillage, and the storage or disposal of waste oil in earth pits or upon the surface of any plot, street or public area is prohibited.

16. Collection of waste

- (1) The municipality may, having regard to the avoidance of nuisance and the convenience of collection of waste, indicate a position within or outside the premises where the receptacle must be placed for the collection and removal of the waste, and the receptacle must then be placed in that position at the times and for a period as the municipality or the licensee may require.
- (2) The municipality shall collect all waste placed in portable receptacles from all premises upon which a compulsory domestic refuse removal tariff or charge has been levied and as frequently as may be determined by the municipality.
- (3) The municipality shall collect only waste placed in a receptacle or other container approved by it or which is bundled or packaged in a manner approved by the municipality.
- (4) Where a particular kind of waste as stipulated by the municipality is not collected by the municipality from premises, the owner of the waste must arrange for the collection and transport of the waste, as often as may be necessary to prevent undue accumulation or any nuisance arising therefrom, to a waste disposal or processing site under the control of the municipality, or to such other place as may be approved by the municipality.
- (5) The municipality shall stipulate separate times on which particular categories of waste are to be collected.
- (6) The municipality may –
 - (a) cause collections to be made at regular periods weekly or otherwise, and may alter dates of collection;
 - (b) increase the number of collections as it may deem necessary or desirable; and
 - (c) from time to time make additional collections should it be desirable.

- (7) In the event of any additional collection being required by the occupier of premises, the additional collection will be subject to the approval of the municipality and each additional collection must be paid for by the occupier of premises from which the waste is collected at such rate as the municipality may fix by resolution.
- (8) A person requiring commercial services must ensure that the waste collector is licensed to collect and dispose of the category of waste, and the person must take reasonable steps to ensure that the relevant waste is collected and disposed of in terms of this by-law.

17. Access to premises

- (1) Except where otherwise approved by the municipality, taking into account physical accessibility, an owner must –
- (a) provide access from the nearest public road to the waste storage area on a premises, which access must be independent and unimpeded;
 - (b) provide access from the nearest public road to the waste storage area on a premises, which access may not lead through any aperture less than 1 metre wide and 2,5 metres high;
 - (c) ensure that the area and all parts of the access thereto is on the same level as the road; and
 - (d) ensure that the area and all parts of the access thereto is not more than 18 metres from the entrance to the premises from which the collection of waste is made.

18. Right of entry

- (1) Any duly authorised employee of the municipality is entitled to enter, at any time, premises in respect of which the municipality's waste management services are rendered –
- (a) for collecting and superintending the collection of waste;
 - (b) for inspecting or replacing receptacles, containers or bundles;
 - (c) for inspecting the means of access to the premises in general or the place where refuse receptacles or containers are kept so as to ensure that they are accessible and convenient for the collectors; and
 - (d) generally for ensuring that the provisions of this by-law are complied with.
- (2) An occupier of premises may not –
- (a) refuse access to the premises to an authorised employee of the municipality in the performance of their duties;
 - (b) obstructs or impedes an authorised employee of the municipality in the performance of their duties; or
 - (c) omit or refuse to give to an employee of the municipality any information lawfully required for the proper discharge of the employee's duties or supplies false information.

19. Inaccessible premises

- (1) The owner or occupier of premises whom the municipality has notified that the premises are dangerous because of
- (a) the existence on the premises of a vicious animal; or
 - (b) any other reason which renders the premises dangerous;

must on the day on which waste is collected from the premises, place for collection all receptacles or other containers, packages or bundles of waste outside the premises at a time and for a period as specified in the notice.

20. Interference with receptacle

- (1) No person other than a person employed by the municipality in connection with the municipality's waste management services may, where a receptacle placed in a street or public place for the purpose of its contents being removed by the municipality, sort over, interfere with or disturb the contents of the receptacle.

21. Transport of waste

- (1) A person removing or conveying waste along any public place in or through an area owned or managed by Council
- (a) must ensure that the receptacle, vehicle or conveyance in which the waste is carried is of a type and design approved by the municipality;
 - (b) must ensure that receptacle, vehicle or conveyance has a body of adequate size and construction for the type of waste being transported;
 - (c) must remove or convey the waste in such a manner as will prevent any nuisance resulting therefrom or the escape of the contents or materials therein;
 - (d) must maintain the receptacle, vehicle or conveyance in a clean, sanitary and roadworthy condition at all times;
 - (e) may not cause or permit any waste being transported to become detached, leak or fall from the receptacle, vehicle or conveyance transporting it, except at a waste disposal facility; and
 - (f) must ensure that the waste is deposited at a waste disposal facility that is permitted to accept such waste.

Part 3**Specific provisions relating to domestic waste****22. Specific provisions relating to generation, storage, collection and transport of domestic waste**

- (1) The occupier of premises used for residential purposes or for purposes of public worship from which waste is to be collected must –
- (a) except where, on written application to the municipality, the municipality has indicated in writing that it is clear that a person is physically infirm or otherwise incapable of complying with the notice, place the receptacle or bag on the pavement in front of the premise, however the municipality may, having regard to the avoidance of nuisance and the convenience of collection of waste, indicate a position within or outside the premises where the receptacle must be placed and the receptacle must then be placed in that position;
 - (b) place the receptacle or bag before a time and on a day of the week specified by the municipality by notice to the occupier;
 - (c) ensure that the receptacle or bag is undamaged and properly closed so as to prevent the dispersal of its contents; and
 - (d) ensure that the emptied receptacle is removed within a reasonable time, and that the immediate area around the spot where the receptacle or bag was placed, is free from waste that may have been spilled during collection.
- (2) An occupier of premises may not deposit or allow to be deposited in any receptacle for domestic refuse the contents of which are removable by the municipality, any waste other than domestic waste.

Part 4**Specific provisions relating to industrial and commercial waste****23. Collection of waste**

- (1) The occupier of premises on which industrial or commercial waste is generated must ensure that –
- (a) the container in which the waste is stored may not be kept in a public place except as required for collection.

24. Compaction of waste

- (1) Where –
- (a) the quantity of waste generated on premises requires daily removal of more than the equivalent of eight 240-litre bins; and

- (b) the major portion of the waste is compactable;

the municipality may require from the generator of the waste to compact that portion of the waste that is compactable, and the generator of the waste must compact any volume of the waste and place it into an approved receptacle or wrapper approved by the municipality, subject to the provisions that –

- (i) the capacity of the wrapper may not exceed 85 litres; and
(ii) the mass of the wrapper and contents may not exceed 35 kilograms.

- (2) After the waste has been compacted and put into the wrapper as contemplated in subsection (1), it must be placed in the approved receptacle and must be stored so as to prevent damage to the wrapper or any nuisance arising until collected.

Part 5

Specific provisions relating to other types of waste

25. Garden waste

- (1) The occupier of premises on which garden waste is generated but not composted must ensure that the waste is collected and disposed of at a waste transfer and recycling station or licensed waste disposal site within a reasonable time after the generation thereof.
- (2) An occupier may compost garden waste on the property, provided that –
- (a) such composting does not cause a nuisance; and
(b) he or she registers with the municipality.
- (3) Any person or a waste collector may remove garden waste, provided that once such waste has been collected from the premises on which it was generated, it is disposed of at a waste transfer and recycling station or licensed waste disposal site.
- (4) The municipality, in the course of collecting domestic waste, may collect a limited amount of garden waste, equal to two 70-litre bags, if the waste has been placed in an approved receptacle in the space designated for domestic waste, in which event the tariff for domestic waste, read with the necessary changes, will apply.

26. Building waste

- (1) The owner of premises on which building waste is 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; and
(b) pursuant to any instructions from the municipality, any structure necessary to contain the building waste is constructed.
- (2) The occupier of premises on which building waste is generated may dispose of the waste or must ensure that the waste is collected and disposed of by a waste collector registered with the municipality for this purpose.
- (3) All building waste must be disposed at a waste disposal facility designated for that purpose by the municipality, unless the municipality has given written consent for the building waste to be used for the purpose of land reclamation or for recycling.

27. Bulky waste

- (1) An article of waste which does not fit, or cannot be fitted into –
- (a) a receptacle for domestic waste;
 - (b) a cylindrical container 750 millimetres in diameter and 1 metre in length where no such receptacle is provided,
- is treated as bulky waste.
- (2) The occupier of the premises on which bulky waste is generated must ensure that the waste is collected and disposed within a reasonable time after the generation thereof at a waste transfer and recycling station or licensed waste disposal site.

art 6**Littering and dumping****28. Littering**

- (1) No person or firm may –
- (a) discard waste on municipal land other than in a receptacle provided or approved by the municipality for the discarding of waste by the public;
 - (b) disturb anything in or remove anything from any receptacle which has been placed for the purposes of collecting waste; or
 - (c) sweep any waste into a gutter onto a road reserve or onto any other public place.
- (2) An occupier of a premise or the owner of a plot must monitor the premise or plot for acts of littering by another person or firm and must forthwith report such act of littering to the municipality.

29. Dumping

- (1) No person may –
- (a) except by permission of the owner or of the person or authority having control thereof; or
 - (b) unless authorised by law to do so;
- dump, accumulate, place, deposit, leave or cause or allow to be dumped, accumulated, placed, deposited or left on or in –
- (i) any road, public footway, pavement or any road verge;
 - (ii) any commonage land, village green, park, recreation ground or other open space to which the public have access;
 - (iii) any drain, watercourse, flood prone areas, tidal or other water in or abutting on any road, highway, street, lane, public footway or pavement, roadside or other open space to which the public have access; or

(iv) private or municipal land,

any waste whatsoever, whether for gain or otherwise.

(2) Should a person do any of the acts referred to in (1), the municipality may by written notice require -

(a) the person directly or indirectly responsible for dumping, accumulating, placing, depositing, or leaving the waste;

(b) the owner of the waste, whether or not he or she is responsible for dumping, accumulating, placing, depositing or leaving the waste; or

(c) the owner or occupier of the land or premises on which the waste was dumped, accumulated, placed, deposited, or left, whether or not he or she is responsible therefor,

to remove the waste within the period stated in the notice.

(3) If a person fails to comply with the requirements of a written notice, the municipality may dispose of, destroy or remove the waste and may recover the cost of doing so from the person or persons to whom the notice was issued.

(4) If waste has been deposited in or on any land in contravention of subsection (1) and -

(a) in order to remove or prevent pollution of land, water or air or harm to human health, it is necessary that the waste be forthwith removed or other steps taken to eliminate or reduce the consequences of the deposit or both;

(b) there is no occupier of the land; or

(c) the occupier neither made nor knowingly permitted the deposit of the waste,

the municipality may remove the waste from the land or take other steps to eliminate or reduce the consequences of the deposit or as the case may require, to remove the waste and take those steps and is entitled to recover the cost incurred by it in removing the waste or taking the steps or both and in disposing of the waste -

(i) from the occupier of the land, unless he or she proves that he or she neither made nor knowingly caused nor knowingly permitted the deposit of the waste; and

(ii) from any person who deposited or knowingly caused or knowingly permitted the deposit of any of the waste.

(5) Any waste removed by the municipality belongs to the municipality and may be dealt with accordingly.

Part 7

Burning of waste

30. Burning of waste

(1) No person may burn waste except at -

(a) an authorised incinerator operated by the municipality; or

(b) a place designated by the municipality for such purpose.

CHAPTER 6**COMPLIANCE AND ENFORCEMENT*****Part 1: General duty*****31. Duty of care**

- (1) Any person who generates waste has a duty to manage that waste in such a manner that the waste does not endanger health or cause pollution or degradation of the environment and must take all reasonable measures to –
 - (a) reduce the generation of waste;
 - (b) re-use and recycle waste;
 - (c) ensure that, where waste must be disposed of, it is disposed of in an environmentally sound manner;
 - (d) manage the waste in such a manner that it does not cause a nuisance through noise, dust or odour; and
 - (e) prevent the waste from being used for a purpose or in a manner not permitted by law.
- (2) No person may generate, collect, store, transport, sort, recycle, re-use, recover, treat, dispose of or otherwise manage waste in a manner that results in, or creates a risk of harm that is not insignificant to human health or the environment.
- (3) Every person who generates, collects, stores, transports, sorts, recycles, re-uses, recovers, treats or disposes of waste shall take all reasonable measures to prevent any other person from contravening subsection (2) in relation to that waste.
- (4) Where any waste management activity has been authorised by law, the person so authorised shall minimise and remedy any pollution or degradation to the environment.
- (5) Without limiting the generality of the duties imposed in this section, the persons on whom subsections (1), (2), (3) and (4) imposes a duty shall include an owner of land, premises or equipment, a person in control of land, premises or equipment, a person who has a right to use the land, premises or equipment or a person who owns or controls equipment or vehicles on which or in which –
 - (a) any activity or process is or was performed or undertaken that results in the generation of waste;
 - (b) waste is transported, managed, treated or disposed of; or
 - (c) any other situation exists;which causes, or is likely to cause harm to human health or pollution or degradation to the environment.
- (6) The measures that are required in terms of this section include –
 - (a) investigation, assessment and evaluation of the impact of the waste 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 pollution or degradation to the environment;
 - (c) ceasing, modifying or controlling any act or activity which causes pollution or degradation;
 - (d) containing or preventing the movement of pollutants or the causes of degradation or damage to the environment;
 - (e) eliminating any source of the pollution or degradation; and
 - (f) remediating the effects of the pollution or degradation.
- (7) The Municipality may issue a Code of Practice to provide guidance on how duty imposed by this section must be discharged.

- (8) The Municipality may, after consultation with any other organ of state concerned and after having given adequate opportunity to affected persons to inform it of their relevant interests, direct any person who fails to take the measures required under subsection (1) to—
- (a) cease an activity;
 - (b) investigate, evaluate and assess the impact of specific activities and report thereon;
 - (c) commence taking specific reasonable measures before a given date;
 - (d) diligently continue with those measures; and
 - (e) complete them before a specified reasonable date;
- provided that if urgent action is necessary for the protection of the environment, the Municipality may issue such directive and give the person an opportunity to comment as soon thereafter as is reasonable.
- (9) Should a person fail to comply, or inadequately comply, with a directive under subsection (8), the Municipality may take reasonable measures to remedy the situation.
- (10) The Municipality recover all costs incurred as a result of it acting under subsection (9) from—
- (a) any person who is or was responsible for or who directly or indirectly contributed to, the pollution or degradation or the potential pollution or degradation;
 - (b) the owner of the land at the time when the pollution or degradation or the potential for pollution or degradation occurred or that owner's successor in title;
 - (c) the person in control of the land or any person who has or had a right to use the land at the time when—
 - (i) the activity or the process is or was performed or undertaken; or
 - (ii) the situation came about; or
 - (d) any person who negligently failed to prevent—
 - (i) the activity or the process being performed or undertaken; or
 - (ii) the situation from coming about.

Part 2

Powers and representations

32. Notice of compliance and representation

- (1) If a person is contravening a provision of this by-law, an official may in writing issue a compliance notice and serve it on the person concerned to take remedial measures.
- (2) A notice must state –
 - (a) the name, residential and postal address of the affected person;
 - (b) the nature of the nuisance, harm to human health or damage to the environment that the affected person is causing or is likely to cause;

- (c) in sufficient detail to enable compliance with the notice, the measures required to forestall or remedy the nuisance, harm to human health or damage to the environment; and
 - (d) that the person must within a specified time period take measures to comply with the notice, to diligently continue with the measures and to complete the measures before a specific date.
- (3) If the person fails to comply within the stipulated time period with the requirements stipulated in the notice –
- (a) the municipality may perform the steps required in the notice and should the municipality incur any costs as a result of performing such steps, it may recover any reasonable costs irrespective if criminal proceedings have been or not been instituted against a person.
- (4) A person may within the time period stipulated by the municipality make representations, in the form of a sworn statement or affirmation to the municipality at the place specified in the notice.
- (5) Representations not lodged within the time period will not be considered, except where the person has shown good cause and the municipality condones the late lodging of the representations.
- (6) The municipality must consider the representations and any response thereto by an authorised official or any other person, if there be such a response.
- (7) The municipality may, on its own volition, conduct any further investigations to verify the facts if necessary and the results of the investigation must be made available to the person, who must be given an opportunity of making a further response if he or she so wishes, and the municipality must also consider the further response.
- (8) The municipality must, after consideration of the representations and response, if there be such a response, make an order in writing and serve a copy of it on the person.
- (9) The order contemplated in subsection (8) must –
- (a) set out the findings of the municipality;
 - (b) confirm, alter or set aside in whole or in part, the notice of compliance; and
 - (c) specify a period within which the person must comply with the notice or order made by the municipality.
- (10) If the notice of compliance is confirmed, in whole or in part, or is altered but not set aside, the municipality will inform the person that he or she –
- (a) must discharge the obligations set out in the notice; or
 - (b) may elect to be tried in court.
- (11) If the person elects to be tried in court he or she must, within seven calendar days, notify the municipality of his or her intention.
- (12) If the person does not elect to be tried in court, he or she must, within the prescribed manner and time discharge his or her obligations under the notice.

33. Costs

- (1) Should a person fail to take the measures required by written notice, the municipality may, subject to subsection (4) recover all costs incurred from that person and any or all of the following persons:
 - (a) any person who is or was responsible for, or who directly or indirectly contributed to, the pollution or degradation or the potential pollution or degradation;
 - (b) the owner of the land at the time when the pollution or degradation or the potential for pollution or degradation occurred, or that owner's successor in title;
 - (c) the person in control of the land or any person who has or had a right to use the land at the time when the activity or the process is or was performed or undertaken.
 - (d) any person who negligently failed to prevent the activity or the process being performed or undertaken.
- (2) The municipality may furthermore, in respect of the recovery of costs, claim proportionally from any other person who benefited from the measures undertaken by the municipality.
- (3) The costs claimed must be reasonable and may include, without being limited to, labour, administrative and overhead costs.
- (4) If more than one person is liable for costs incurred, the liability must be apportioned among the persons concerned according to the degree to which each was responsible for the harm to the environment resulting from their respective failures to take the required measures.

CHAPTER 7

ADMINISTRATIVE AND OTHER MATTERS

34. Authentication and service of order, notice or other document

- (1) Any notice or other document that is served on a person in terms of this by-law, is regarded as having been served-
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates; or
 - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate.
- (2) Service of a copy shall be deemed to be service of the original.

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

35. Regulations, legal documents and steps valid under certain circumstances

- (1) A regulation or notice, or an authorisation, permit or other document, purportedly made or issued in terms of this by-law or Environmental Management Act –

(a) which does not comply with a procedural requirement of the relevant Act, is nevertheless valid if the non-compliance is not material and does not prejudice any person; or

(b) may be amended or replaced without following a procedural requirement of the relevant Act if –

(i) the purpose is to correct an error; and

(ii) the correction does not change the rights and duties of any person materially.

(2) The failure to take any steps in terms of this by-law or the act as a prerequisite for any decision or action does not invalidate the decision or action if the failure –

(a) is not material;

(b) does not prejudice any person; and

(c) is not procedurally unfair.

36. Limitation of liability

(1) The municipality is not liable for any damage or loss caused by –

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

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

37. Exemptions

(1) The municipality may exempt activities from any one or more of the provisions of this by-law in the following circumstances:

(a) start-up periods;

(b) shut-down periods;

(c) planned maintenance periods; and

(d) periods of reasonable breakdown of pollution control equipment.

38. Waiver

- (1) The municipality may waive compliance with or permit deviations, exceptions and exemptions from any provisions of this by-law subject to such conditions as it may deem fit.
- (2) The municipality shall serve a signed written notice upon the person and the notice must cite –
 - (a) the provision that was waived or relaxed; and,
 - (b) the extent to which it has been waived.
- (3) The municipality must keep a record, which contains a copy of the notice and the public may, at all reasonable hours, inspect this record at the offices of the municipality.
- (4) A person whose rights are adversely affected by the waiver or relaxation is not bound thereby.

39. Offence and Penalties

- (1) Any person who contravenes or fails to comply with any provision of this by-law is guilty of an offence and on conviction liable to a fine or imprisonment.

40. Repeal of By-Law

By-law on Waste previously made by the municipality or its constituent predecessors in respect of any portion of the area of the Lephalale Local Municipality, are hereby repealed .

41. Short title and commencement

This by-law is called the Waste Management By-Law and comes into operation on the date of publication in the Provincial Gazette.
